

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU****DATED THIS THE 21ST DAY OF APRIL, 2023****BEFORE****THE HON'BLE MR JUSTICE V SRISHANANDA****CRIMINAL PETITION NO. 2495 OF 2023****BETWEEN:**

MR SHIVANNA K,
S/O LATE KENCHAPPA,
AGED ABOUT 56 YEARS,
WORKING AS VILLAGE ASSSISTANT,
OFFICE OF THE REVENUE INSPECTOR,
KASABA HOBLI, KADURAHALLI CIRCLE,
KADUR TALUK, RESIDENT OF BALLARY CAMP,
BIRUR, CHIKKAMAGALURU DIST,
PIN-577 116.

NATIVE OF BAGGAVALI VILLAGE,
AJJAMPURA TALUK,
CHIKKAMAGALURU DISTRICT PIN-577 547.

(ACCUSED IN CRIME NO 2/2023
OF LOKAYUKTA POLICE, CHIKKAMAGALURU)

...PETITIONER

(BY SRI. I.S PRAMOD CHANDRA., ADVOCATE)

AND:

STATE OF KARNATAKA,
BY LOKAYUKTA POLICE,
CHIKKAMAGALURU, REPRESENTED THROUGH THE
SPL. PUBLIC PROSECUTOR, HIGH COURT OF
KARNATAKA, BANGALORE-560 001.

...RESPONDENT

(BY SRI. B.B. PATIL., ADVOCATE)





THIS CRIMINAL PETITION IS FILED U/S 439 CR.PC PRAYING TO ENLARGE THE PETITIONER ON BAIL IN THE CR.NO.2/2023 REGISTERED LOKAYUKTHA POLICE STATION, CHIKKAMAGALUR DISTRICT FOR THE OFFENCE P/U/S 7(a) OF PREVENTION OF CORRUPTION ACT, PENDING ON THE FILE OF PRL. DISTRICT AND SESSIONS JUDGE, CHIKKAMAGALURU.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. Heard Sri. I.S. Pramod Chandra, learned counsel for the petitioner and Sri. B.B. Patil, learned counsel for the respondent State-Lokayuktha Police, Chikkamagaluru. Perused the records.

2. This petition is filed under Section 439 of Cr.P.C. with the following prayer:

"WHEREFORE, it is humbly prayed this Hon'ble Court be pleased to grant the relief of bail to the Petitioner in Crime No. 2/2023 registered with Lokayukta Police, Chikkamagaluru for an offence punishable under Sec. 7(a) of Prevention of Corruption Act and now pending on the file of the learned Principal District and Sessions Judge at Chikkamagalur, with such conditions as this Hon'ble Court deems fit to impose upon the Petitioner, in the facts and circumstances of the case, in the interest of justice and equity".



3. The brief facts of the case are as under:

4. Upon the complaint lodged by Smt. Sarojamma, Lokayuktha Police, Chikkamagalur, registered a case in Crime No.2/2023 on 21.02.2023 for the offence punishable under Section 7(a) of the Prevention of Corruption Act, 1988 (Amendment Act, 2018) (hereinafter referred to as '**PC Act**' for short).

5. The petitioner has been successfully trapped by the Lokayuktha Police on 21.02.2023 and in the trap proceedings, a sum of Rs.2,000/- is seized which is a tainted currency from the custody of accused/petitioner. His explanation is also obtained with regard to the incident and colour test stood positive. He has also been suspended from the service and necessary documents are already seized by the Lokayuktha Police from the office of the accused/petitioner .

6. The attempt made by the petitioner to obtain an order of grant of bail before the Principal District and Sessions Judge and Special Judge at Chikkamagaluru was turned down by order dated 28.02.2023 in Crime No.2/2023. Thereafter, the petitioner is before this Court.



7. Reiterating the grounds urged in the bail petition Sri.I.S. Pramod Chandra, learned counsel for the petitioner vehemently contended that the matter does not require a custodial investigation nor in the present case the custodial trial is warranted inasmuch as the tainted currency has already been seized and colour test has also been resulted in positive and necessary papers are already seized from the hands of the petitioner and there remains nothing to be seized from the custody of the petitioner. He also pointed out that the apprehension of the prosecution can be met with by imposing suitable and stringent conditions and therefore, the petitioner be enlarged on bail.

8. Per contra, Sri. B. B.Patil, learned counsel for the respondent vehemently opposed bail grounds by contending that if the accused is granted bail, it would send a wrong signal to the Society at large and also it encourages the perpetrators of the similar nature and sought for rejection of the petition. He further contended that if the petitioner is enlarged on bail, he may be tamper with the prosecution witnesses. Therefore, his bail request is to be rejected.



9. In the light of the rival contentions of the parties, this Court perused the materials on record meticulously.

10. On such perusal of the materials on record, it is seen that accused/petitioner was trapped successfully and the tainted currency to the tune of Rs.2,000 /- has been recovered from the accused and colour test stood positive.

11. The explanation offered by the petitioner is taken on record. The files and papers pertaining to the complaint is seized from the office of the petitioner. Therefore, the apprehension of the prosecution that the petitioner may tamper with the prosecution witnesses stands quelled to a greater extent.

12. If the respondent - Lokayuktha is of the opinion that the panch witnesses may turn hostile to the case of the prosecution at the behest of the petitioner, it is always open for the prosecution to get the statement of the panch witnesses recorded under Section 164 of Cr.P.C. pending investigation of the matter.

13. Further, since the cash and relevant documents were also seized, this Court does not find any real and compelling reasons to continue the accused petitioner in judicial



custody any longer nor it is a case for custodial trial as is rightly contended by the learned counsel for the petitioner.

14. Further, since the petitioner has already suspended from the service, he has no access to the documents pertaining to the case file in the office of the accused/petitioner.

15. Further, the other apprehension of the prosecution can be met with by imposing stringent and suitable conditions. Accordingly, this Court passes the following:

ORDER

1. The Criminal Petition is ***allowed***.
2. Petitioner shall be enlarged on bail on executing a personal bond in a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for the likesum to the satisfaction of the trial Court.
3. Petitioner shall not directly or indirectly tamper the prosecution witnesses' or hamper the investigation process in any manner.
4. Petitioner shall co-operate with the investigation.
5. Petitioner shall attend the Court regularly.
6. Petitioner shall not leave the jurisdiction of Bengaluru District without prior permission.



If any of the above conditions are violated, the prosecution is at liberty to seek for cancellation of bail order.

Ordered accordingly.

**Sd/-
JUDGE**

PL*