

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5<sup>TH</sup> DAY OF SEPTEMBER, 2019

BEFORE

THE HON'BLE MR.JUSTICE B.A.PATIL

CRIMINAL PETITION NO.3791/2019

**BETWEEN :**

Sandeep Gururajan  
S/o S.V.Gururajan  
Aged about 38 years  
Presently residing at B-04,  
V.K. Residency,  
Dr. Shivaram Karanth Road,  
Chikkalasandra,  
Bengaluru-560 004.

... Petitioner

(By Sri Gautham S. Bharadwaj, Advocate)

**AND :**

State of Karnataka  
The station House Officer  
Cubbon Park Police Station  
Represented by the Special Public Prosecutor  
High Court Building  
Bengaluru-560 001.

... Respondent

(By Sri Sandesh J. Chouta, Addl. Advocate General a/w.  
Sri K.Nageshwarappa, HCGP;  
Sri S.K. Venkata Reddy, Advocate for Complainant)

This Criminal Petition is filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail in Crime

No.257/2018 (C.C.No.7559/2019) of Cubbon Park Police Station, Bengaluru, for the offences punishable under Sections 120B, 406, 408, 409, 420, 465, 467, 468, 471, 477(A), 506, 201 r/w Section 34 of Indian Penal Code.

This Criminal Petition having been heard and reserved on 22.08.2019 coming on for pronouncement of orders this day, the Court made the following:-

**ORDER**

This petition is filed by accused No.1 under Section 439 of Cr.P.C. to release him on bail in Crime No.257/2018 of Cubbon Park Police Station for the offences punishable under Sections 120B, 406, 408, 409, 465, 467, 468, 471, 477A, 506, 201 and 420 of IPC.

2. I have heard Sri Gautham S.Bharadwaj, the learned counsel for the petitioner-accused No1 and Sri Sandesh J Chouta, learned Additional Advocate General for the respondent-State. Sri S.K.Venkatareddy, learned counsel appearing on behalf of the complainant has filed his written arguments. I have also heard him.

3. The genesis of the complaint is that Sri Viatheeswaran, Chief Executive Officer of Manipal

Integrated Services Private Limited filed the complaint against the accused persons alleging that accused No.1 was working as Deputy General Manager in the said Company. He wrongfully diverted certain amount of Manipal Group Companies and also personal account of the Chairman of Manipal Group Companies in favour of accused Nos.2 to 5. It is further alleged that accused Nos.3 to 5 have colluded with accused No.1 in committing such offence. The auditors were asked to look into the accounts relating to Manipal Group Companies and the personal account of the Chairman. On the basis of the interim report dated 16.11.2018 they confirmed the diversion of funds from various bank accounts to the accounts of wife of accused No.1 and to his personal account maintained in the State Bank of India as well as to the account of the firm M/s.Beehive Advisors, of which accused Nos.1 and 2 were partners. The audit report disclosed that the accused persons have cheated the complainant to an amount of

Rs.7,65,31,564/-. On the basis of the said complaint, a case has been registered.

4. It is the submission of the learned counsel for the petitioner-accused No.1 that already charge sheet has been filed. The entire charge sheet material does not disclose the case as against accused No.1. He further submitted that whatever the transactions which have been made by accused No.1 were authorized by Mr.Rangarajan, Chief Financial Officer and also by the Board consisting of Dr.Ranjan Pai and another partner. He further submitted that when the financial transactions have been authorized by the Board and all the transactions have been made through banking and the amount has been invested in mutual funds, then under such circumstances, there is no misuse of funds or misappropriation of funds. He further submitted that the alleged incident has taken place during 2012 and the case has been registered as against the petitioner-accused No.1 and other accused persons on 26.12.2018.

There is inordinate delay in filing the complaint. He further submitted that all the transactions have been taken place as per the assignment and it is not for the personal benefit of the petitioner-accused No.1. He further submitted that some of the important documents are missing from the Police Station that itself creates a doubt and collusion with the complainant. He further submitted that the misappropriation of Rs.62 Crores has been mentioned in the complaint. Subsequently it has been mentioned as Rs.225 Crores. Sri Rangarajan has not been examined by the Investigating Agency who is considered to be a material witness. All the transactions were not within the knowledge of the petitioner-accused No.1. He further submitted that the object of bail is to secure the appearance of the accused persons at the time of trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered as a punishment unless it is required to ensure that an accused person will stand his trial when called upon. The Court owe more than verbal

respect to the principle that punishment begins after conviction and every man is deemed to be innocent until duly tried and found guilty. He further submitted that bail is a rule and prevention or imprisonment is an exception. In order to substantiate his contention, he relied upon the decisions in the case of **Sanjay Chandra Vs. Central Bureau of Investigation** reported in **(2012)1 SCC 40**; in the case of **Nikesh Tarachand Shah Vs. Union of India and another**, reported in **(2018)11 SCC 1**; in the case of **Dataram Singh Vs. State of Uttar Pradesh and another**, reported in **(2018) 3 SCC 22**.

5. He further submitted that the petitioner-accused No.1 is not required for further interrogation or investigation. Even the police have not sought for custody of him for investigation then under such circumstances, his detention is nothing but deprivation of his right. In order to substantiate his contention, he relied upon a decision in the case of **Virender Kumar**

***Yadav Vs. Central Bureau of Investigation***, reported in **(2016) 14 SCC 99**. He further submitted that already accused Nos.2, 4 and 5 have been released on bail and on the ground of parity, the petitioner-accused No.1 is entitled to be released on bail. He further submitted that the detention of the petitioner-accused No.1 amounts to nothing but pretrial conviction and as such he is entitled to be enlarged on bail. The alleged offences are not punishable with death or imprisonment for life. He also relied upon of the decisions of this Court in the case of T.R.Ananda & others Vs. The State of Karnataka & another in Criminal Petition No.5959/2018 & connected matters, disposed of on 3.10.2018; and in the case of Sri N.Viswanathan Vs. State by CBI-ACB in Criminal Petition No.4597/2013, disposed of on 23.9.2013. He further submitted that the petitioner-accused No.1 is ready to abide by the conditions imposed by this Court and ready to offer the sureties. On these grounds, he prayed to allow the petition.

6. *Per contra*, the learned Additional Advocate General vehemently argued and submitted that the petitioner-accused No.1 along with other accused persons has been involved in a serious economic offence whereunder more than 70 Crores of Rupees has been misused and only an amount of Rs.8 crores has been recovered at his instance and balance amount has to be recovered from remaining accused persons. Accused Nos.3 and 6 are absconding, in whose favour huge amount has been transferred. Accused No.1 joined as Management Trainee and subsequently he got promoted as Deputy General Manager (Finance). He was dealing with the personal accounts of Dr.Ranjan Pai and the firm. He further submitted that the petitioner has not invested the amount in mutual funds, but by misusing his authority, he has transferred the amount to his personal accounts and to the accounts of firm wherein himself and his wife were the partners. He has further submitted that the petitioner-accused No.1 and his wife have confessed about the misappropriation of the funds on



6.12.2018 prior to the registration of the FIR. By looking into the entire transactions, it is accused Nos.2 to 5 are the beneficiaries and it is accused No.1 who is the kingpin who used to transact and used to transfer the funds to various accounts pertaining to his wife and brother-in-law and other relatives. There is ample material to show that accused persons have conspired with each other. About 12 witnesses speak about the said aspect. There is extra-judicial confession and recovery of Rs.8 Crores at the instance of accused No.1. It is his further submission that some of the electronic gadgets have been recovered from accused No.1. If petitioner-accused No.1 is enlarged on bail, he may hamper the investigation by tampering with the electronic gadgets. If he is released on bail, it becomes very impossible for recovery of further information. Petitioner is highly influential person and he may tamper with the prosecution witnesses. He further submitted that there is no authority given by any of the partners to deal with the said aspect, but accused No.1 by

fabricating the signatures has transacted with the authorities of the Board. Still the said disputed signatures have to be sent for handwriting experts and FSL report. The entire charge sheet material indicates that the petitioner-accused No.1 has invested in spongy schemes, if accused No.1 is convicted he is liable to imprisonment for life. He further submitted that the petitioner-accused No.1 is involved in money laundering. In order to ascertain all the transactions, the information has to be gathered from accused Nos.3 and 6 along with accused No.1.

7. He further submitted that though charge sheet has been filed, permission has been sought for further investigation. The Court while dealing with application for bail, has to consider among other circumstances, the nature of accusation, severity of punishment, reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant, *prima facie* case as against the accused. In this case, all the three

ingredients laid down by the Hon'ble Apex Court in the case of ***Chaman Lal Vs. State of U.P. & another***, reported in ***(2004) 7 SCC 525*** have been satisfied. He further submitted that the Hon'ble Apex Court in the case of ***Prasanta Kumar Sarkar Vs. Ashis Chatterjee and another***, reported in ***(2010)14 SCC 496*** has given certain guidelines which are to be kept in mind while considering the bail application. Keeping in view the said guidelines if the material on record is perused the petitioner-accused No.1 is not entitled to be released on bail. He further submitted that economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. In case of economic offences which are having deep-rooted conspiracies and involving huge loss of public funds have to be viewed seriously and the said offence has to be considered as grave offence affecting the economy of the country as a whole which affects the financial health of the country. In order to substantiate the said contention, he relied upon the decision of the Hon'ble Apex Court in

the case of **Y.S.Jagan Mohan Reddy Vs. Central Bureau of Investigation**, reported in **(2013) 7 SCC 439** and the decision of this Court in the case of **Ms.Charusmitha P.N. & others Vs. State of Karnataka** in Criminal Petition No.482/2019 & connected matters, disposed of on 16.4.2019. He further submitted that the Court while dealing with the application for bail has to satisfy itself whether there is genuine case as against the accused person and prosecution will be able to produce *prima facie* evidence in support of the charge. In this regard, he relied upon the decision in the case of **Central Bureau of Investigation Vs. V.Vijay Sai Reddy**, reported in **(2013) 7 SCC 452**. It is his further submission that in recent years, this country has been seeing an alarming rise in white-collar crimes which has affected the fibre of the country's economic structure. Economic offences have serious repercussions on the development of the country as a whole. They should be dealt with different approach. In this regard, he relied upon a decision in the

case of ***Nimmagadda Prasad Vs. Central Bureau of Investigation***, reported in ***AIR 2013 SC 2821***. By relying upon the judgment in the case of ***P.Chidambaram Vs. Central Bureau of Investigation*** delivered by the Delhi High Court in Bail Application No.1316/2018 & CrI.M.A.10976/2018 pronounced on 20.8.2019. He further submitted that the investigation conducted reveals *prima facie* material as against the petitioner involving in money laundering. Even though the personal liberty is an issue, no one should be allowed to break the laws in a case of high magnitude. On these grounds, he prayed to dismiss the petition.

8. The learned counsel for the complainant has filed his written arguments. By substantiating his written arguments he submitted that petitioner-accused No.1 has confessed about misappropriation of the amount before Dr.Ranjan Pai and Smt.Shruthi Pai from their accounts to the tune of Rs.8.78 Crores. By substantiating the arguments of the learned Additional Advocate General,

he further submitted that accused No.1 is a Chartered Accountant, A3 is a pilot working in Qatar Airways, Dubai, accused No.6 is a Software Engineer who are all white collared criminals. With conspiracy to each other by entering into opening of accounts they have made investment into financial institutions and it is well planned crime by fabricating and forging the documents with an intention to cheat the victim. He further submitted that the bail granted in favour of accused Nos.2, 4 and 5 has been challenged before the Hon'ble Apex Court and the hearing date has been fixed as 2.9.2019. Still investigation is continuing and if the petitioner-accused No.1 is released on bail he may abscond along with accused Nos.3 and 6. He further submitted that the petitioner has swindled the money of the victim and his institution, by his closeness with the partners. On these grounds, he prayed to dismiss the petition.

9. I have carefully and cautiously gone through the submissions made by the learned counsel appearing for the parties and perused the records. I have also given my anxious and thoughtful consideration to the decisions quoted by the learned counsel appearing for the parties. Keeping in view the above said proposition of law and facts, let me consider whether the petitioner-accused No.1 is entitled to be released on bail.

10. The Hon'ble Apex Court time and again in *catena* of decisions has reiterated the principle that bail is a rule and jail is an exception. Another important facet of our criminal jurisdiction is that grant of bail is a general rule and putting a person in a jail or prison or in correction home is an exception. The object of the bail is to secure a person at the time of trial and deprivation of liberty must be considered as a punishment unless it is required to ensure that an accused person will stand his trial when called upon. It is also well settled proposition of law that punishment begins after conviction and every

man is deemed to be innocent until duly tried and found guilty. In the decisions quoted by the learned counsel for the petitioner-accused No.1 also the said proposition of law has been reiterated. In order to avoid repetition, I have only referred to the principle laid down therein. From time to time as and when necessity demands some unconvicted persons should be held in custody pending trial if it is felt necessary in such cases 'necessity is the operative test' apart from that there are some other guidelines laid down by the Hon'ble Apex Court as to under what circumstances the general rule is not applicable and in such exceptional cases the concept of personal liberty venturing in the Constitution can be diverted. In all cases the general principle cannot be applied and accused cannot be released on bail, that too when some extraordinary circumstances are existing in the case. In that light, let me consider the facts of the present case.



11. It is the specific case of the prosecution that accused No.1 was working in Manipal Integrated Services Private Limited as Deputy General Manager (Finance). It is further case, that he misused the trust reposed in him and committed the illegal transactions. It is further alleged that the petitioner has wrongfully diverted an amount of Rs.62 Crores under various heads of accounts maintained by accused Nos.1 to 5 and also to the account of the partners of M/s.Beehive Advisors, of which petitioner-accused No.1 and his wife accused No.2 are the partners. During the course of arguments it is contended by the learned counsel for the petitioner by drawing my attention to various statement of accounts to the effect that whatever transfers which have been done by accused No.1 are with authorization of Dr.Ranjan Pai and Smt.Shruthi Pai and even the Board has authorized him to transfer the amount. It is his further contention that in his name a meager amount has been transferred and he is not having any type of relationship with accused No.3 who is working as a Pilot in Qatar Airways.

It is his further submission that he has transferred the amount to invest it in mutual funds.

12. It is the specific contention of the learned Additional Advocate General that the authorization said to have been given are fabricated and forged documents, they have not been signed by any of the partners and the said documents have to be sent for verification of handwriting experts and FSL. *Prima facie*, they are not acceptable and reliable. When the petitioner contends that he has been authorized and the prosecution case is that the said authorization document is forged and fabricated document, then under such circumstances, at this juncture, it is very difficult for this Court to give any finding on the said issue. The said matter which has to be considered and appreciated only at the time of trial. It is not in dispute that accused No.2 is the wife of accused No.1, accused No.4 is the daughter of accused No.5, accused No.5 is the mother of accused No.1, accused No.6 is the brother of accused No.1. The records

reveal that the amount has been transferred to the bank accounts of accused Nos.2 to 6 by accused No.1, who was working as Deputy General Manager (Finance) and all the transactions are within his knowledge. When the prosecution has specifically contended that there is transfer and misuse of huge funds and the entire charge sheet material discloses that all transactions have been made by accused No.1, it is he who is the kingpin in respect of all the transactions and it is a brain child of accused No.1. It also reveals that the accounts are accessible to him and knowing fully well he has got diverted the amount of the complainant to the accounts of accused Nos.2 to 5. If really he was not having any intention and he has acted on the authorization of the partners, then under such circumstances, he confessing before two partners would not have arisen. An amount of Rs.8 Crores out of 70 Crores has been recovered from the possession of accused No.1. Even the charge sheet material goes to show that there was larger conspiracy with other accused persons. It is also an admitted fact

that still accused Nos.3 and 6 have not been apprehended and they have to be interrogated as huge money has been transferred in favour of accused No.3. Looking into all these factual situations, the serious allegations are made as against accused No.1 and *prima facie* it also reveals that accused No.1 is the main kingpin in respect of all transactions.

13. It is well settled proposition of law in the case of ***Y.S.Jagan Mohan Reddy Vs. Central Bureau of Investigation***, (cited *supra*), wherein at paragraphs-34 to 36 it has been observed by the Hon'ble Apex Court as under:-

*"34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and*

*thereby posing serious threat to the financial health of the country.*

*35. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations.*

*36. Taking note of all these facts and the huge magnitude of the case and also the request of CBI asking for further time for completion of the investigation in filing the charge-sheet(s), without expressing any opinion on the merits, we are of the opinion that the release of the appellant at this stage may hamper the investigation. However, we direct CBI to complete the investigation and file the charge-sheet(s) within a period of 4 months from today.*

*Thereafter, as observed in the earlier order dated 5.10.2012, the appellant is free to renew his prayer for bail before the trial court and if any such petition is filed, the trial court is free to consider the prayer for bail independently on its own merits without being influenced by dismissal of the present appeal."*

14. In the aforesaid paragraphs, it has been observed that in case of economic offences, they constitute a class apart and need to be visited with a different approach in the matter of bail and they should be viewed seriously. In view of the aforesaid proposition of law and as observed in the case of ***Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others***, reported in **(2011) 1 SCC 694**, the Court must evaluate the entire material as against the accused, it must clearly comprehend the role of the accused, his implication, overwhelming effect on the investigation and other aspects and thereafter pass appropriate orders. In that light, there is ample material as against accused

No.1 for having been involved in a serious economic offence and he is the kingpin and it is his master plan by which he got transferred the amount to the accounts of other accused persons.

15. In the case of **Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others** (cited *supra*), at paragraph-112, the Hon'ble Apex Court has observed as to what are the parameters that can be considered into by the Court while dealing with the bail application, which are as under:-

*"112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:*

*(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*

*(ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;*

*(iii) The possibility of the applicant to flee from justice;*

*(iv) The possibility of the accused's likelihood to repeat similar or other offences;*

*(v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;*

*(vi) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;*

*(vii) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution because overimplication in the cases is a matter of common knowledge and concern;*

*(viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair*



*and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;*

*(ix) The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;*

*(x) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."*

16. Keeping in view the aforesaid proposition of law and even the principles laid down in the decisions quoted by the learned counsel appearing for both the parties, on scrutiny of the charge sheet material, I am of the considered opinion that there is ample material as against the petitioner-accused No.1 for having involved in a serious economic offence. The investigation is still in progress. As the additional charge sheet is to be filed, and as accused No.3 and 6, in whose favour huge

amount has been transferred, are not available for the purpose of investigation since they are absconding, in that light, the apprehension of the learned Additional Government Advocate that if the petitioner-accused No.1 is enlarged on bail he may tamper with the gadgets and other e-documents which is going to subsequently affect the trial as a whole and no documents will be available though the prosecution is intending to prove the case, appears to be justifiable.

In the light of discussion held by me above, I am of the considered opinion that at this stage, the petitioner-accused No.1 has not made out any case to release him on bail. Hence, he is not entitled to be released on bail and the petition is liable to be dismissed. Accordingly, the petition is **dismissed**.

Sd/-  
JUDGE

\*ck/-