

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12<sup>TH</sup> DAY OF AUGUST, 2020

BEFORE

THE HON'BLE MR. JUSTICE P.S. DINESH KUMAR

CRIMINAL PETITION No.2211 OF 2020

**BETWEEN :**

SHRI. SUDHIR ANGUR  
S/O LATE SHRI. GUDDAPPA ANGUR  
AGED ABOUT 57 YEARS  
OCCUPATION: FORMER CHANCELLOR  
OF ALLIANCE UNIVERSITY  
BANGALORE

RESIDING AT G-7, ASHRAYA RESIDENCY  
36<sup>TH</sup> MAIN, BTM LAYOUT  
1<sup>ST</sup> STAGE, BANGALORE-560 029

... PETITIONER

(BY SHRI. B.V. ACHARYA, SENIOR ADVOCATE FOR  
SHRI. R. MANJUNATH, ADVOCATE)

**[THROUGH VIDEO CONFERENCING]**

**AND :**

STATE OF KARNATAKA  
BY R.T. NAGAR P.S  
REPRESENTED BY SPP  
HIGH COURT OF KARNATAKA  
BANGALORE-560 001

... RESPONDENT

(BY SHRI. V.M. SHEELVANT, SPP FOR  
SHRI. P. THEJESH, HCGP)

**[THROUGH VIDEO CONFERENCING]**

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C., PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.219/2019 OF R.T NAGAR POLICE STATION, BANGALORE FOR THE OFFENCE P/U/S 302 OF IPC.

THIS CRIMINAL PETITION, HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 22.07.2020, COMING ON FOR PRONOUNCEMENT OF ORDERS, THIS DAY, THIS COURT PRONOUNCED THE FOLLOWING:-

**ORDER**

This petition under Section 439 Cr.P.C. is filed by accused No.1 for grant of bail in Crime No.219/2020 registered in RT Nagar Police Station, Bengaluru.

2. Heard Shri. B.V.Acharya, learned Senior Advocate for the petitioner and Shri. V.M.Sheelavant, learned State Public Prosecutor for the respondent State.

3. Prosecution's case in substance is, petitioner and Madhukar are brothers. They had differences of opinion with regard to management of Alliance University. Deceased Ayyappa Dore ('Ayyappa' for short) was helping petitioner's

brother Madhukar Angur in all respects in litigations between petitioner and Madhukar Angur. Therefore petitioner has got him eliminated by paying supari of ₹1.5 Lakhs to accused No.2. Accused No. 2 to 6 assaulted Ayyappa with lethal weapons in the night intervening 15<sup>th</sup> and 16<sup>th</sup> of October 2019 at a Maidan near Ayyappa's house and killed him.

4. In support of this petition, Sri Acharya made following submissions:

- The entire case of prosecution rests upon circumstantial evidence and there is no material to suggest that the petitioner is involved in the offence.
- On 26.06.2005, petitioner's sisters formed a Company called Alliance Business School. Petitioner had some pending litigation with his in-laws and therefore he did not become

a Director in that Company. In April 2007, Madhukar (CW.78), lost his job in USA and returned to India. In order to help him, he was made the Managing Director of the Alliance Business School. In 2010, Alliance University was established under the State Act and Madhukar was appointed as its Chancellor.

- During 2015, it was noticed that Madhukar had mis-appropriated large sums of money. When confronted, he offered to resign and transferred all shares held by him and his wife. Thus, from and after 2015, Madhukar and his wife ceased to have any interest in the company, but Madhukar continued as the Chancellor of the University.
- In 2016, Madhukar was arrested by the police on a complaint of rape. Hence he was

suspended from the post of Chancellor. It was noticed that he had committed financial irregularities to the tune of ₹128 crores. An enquiry was conducted and he was terminated from the post of Chancellor with effect from 07.04.2016.

- Since Madhukar was removed from both the Company and the University, he filed a complaint with Anekal Police alleging that shares belonging to him and his wife were illegally transferred by forging their digital signatures and that he had not tendered his resignation as the Director or Managing Director of the Company. This gave rise to a dispute between Madhukar on one side and petitioner and sisters on the other.

5. Shri. Acharya further submitted that according to the prosecution, petitioner got

Ayyappa eliminated because he was helping and supporting Madhukar in conducting the cases. He submitted that this is illogical because, petitioner has been successful in all the litigations.

6. Madhukar filed O.S.No.3395/2015 and withdrew the same on 02.05.2015. He next filed another suit numbered as O.S.No.3011/2016 for injunction. Madhukar's application for injunction was dismissed. But a counter injunction against him was granted.

7. The Company filed O.S. No. 25699/2016 against Madhukar and his wife, wherein temporary injunction was granted against both of them. In MFAs No.6011 and 6012 of 2016, this Court vacated the temporary injunctions by holding that both suits were not maintainable. The University and the Company filed fresh suits against Madhukar.

8. In O.S.No.5148/2017 filed by the Company against Madhukar and his wife, after hearing both sides, an order of injunction has been granted. In O.S.No.3932/2017 filed by University against Madhukar and his wife, temporary injunction orders have been passed against the defendants. Madhukar challenged the orders of injunction passed against him in Miscellaneous First Appeals. After hearing, this Court has dismissed the appeals by common order in MFA No.8545 and connected cases on 28.03.2018 and confirmed the injunction orders passed by the Trial Court.

9. Madhukar had filed a complaint alleging that his digital signature was forged. Accordingly a charge sheet was filed by the police. This Court in W.Ps. No.19462-466 of 2016 has quashed the charge sheet against the petitioner.

10. Madhukar also gave a complaint to the Registrar of Companies (for short 'ROC'). The ROC issued a show cause notice and this Court in W.As. No.3221-24/2019 filed by the petitioner has directed that any order passed by the ROC shall not be implemented for six months.

11. Shri. Acharya submitted that the gist of above cases clearly shows that petitioner has been successful in the legal battles throughout. Therefore this motive attributed against the petitioner is factually unfounded.

12. Shri. Acharya further contended that the other motive alleged against the petitioner is that Ayyappa had advanced a loan of ₹10 crores to the petitioner and on 09.10.2019 Ayyappa demanded the said money in a meeting held in Windsor Manor Hotel and had threatened to make Madhukar the Chancellor of the University if



money was not paid immediately. Shri. Acharya argued that this motive is wholly untenable because FIR does not contain any reference to the alleged transaction of ₹10 Crores. The prosecution has placed reliance on the three cheques allegedly issued by the petitioner. They were issued in July 2018 and had become invalid.

13. Shri. Acharya further submitted that so far as conspiracy aspect is concerned, prosecution's case is that petitioner has paid a supari amount of ₹1.5 lakhs and the conspiracy took place sometime in March 2019. There is absolutely no evidence to establish that conspiracy was hatched in March 2019. According to the prosecution, police have recovered ₹1,100/- from accused No.2 on 16.10.2019 whereas supari amount is claimed as ₹1.5 lakhs. Therefore, the theory of conspiracy is unfounded.

14. With regard to circumstantial evidence, Shri. Acharya submitted that prosecution relies upon exchange of whatsapp messages between accused No.1 and accused No.2 indicating movements of Madhukar and the deceased for few months prior to the incident. He argued that collection of such information cannot be attributed as circumstantial evidence because adversaries in litigations may watch the movements of other side to find out whom their opponent is meeting.

15. The next circumstance is, on the night when the incident took place, accused No.2 had gone to the house of accused No.1 and demanded ₹50,000/-. Petitioner got it from one Shweta Lad (CW.94). Shweta Lad has drawn the said amount in the mid night from an ATM and given to the petitioner. Shri. Acharya urged that receipt of money from Shweta Lad also cannot be

considered as circumstantial evidence because she has stated in her statement that money was sought for medical emergency.

16. Shri. Acharya argued that Madhukar has received about ₹37 crores from deceased Ayyappa. Madhukar has been fighting litigation to get hold of entire management of the University. Therefore, this circumstance points finger at Madhukar.

17. Shri. Acharya further submitted that petitioner has no criminal antecedent. The charge sheet is voluminous and runs into about 5000 pages. There are 180 witnesses in the case. Thus, the trial may go on for quite some time. Above all, petitioner's health may be affected due to Corona virus. Petitioner is a respectable citizen. He shall be always available for trial and undertakes to abide by any conditions this Court

may impose. He urged that 'bail is the rule and jail is exception' and prayed that the petitioner be enlarged on bail.

18. Shri. V.M.Sheelavant, learned State Public Prosecutor, opposing the petition, raised a preliminary objection that this petition is not maintainable because petitioner having filed a bail application before the Trial Court has pre-empted and filed this petition without waiting for the decision of the Trial Court. He submitted that though High Court and Sessions Court have concurrent jurisdiction, petitioner having chosen to file the bail petition before the Sessions Court ought to have awaited its decision.

19. In reply to preliminary objection Shri. Acharya submitted that petitioner has not suppressed any fact before this Court. Petitioner has been in custody since 16.10.2019. He

presented Crl. Misc. No. 1101/2020 before the City Civil and Sessions Court on 04.02.2020. Even as on 15.04.2020, no orders were passed by the learned Sessions Judge. Therefore on 15.04.2020, petitioner, through his advocate sent a requisition to the Registrar (Judicial) through e-mail narrating all facts and sought permission to file a bail petition before this Court. A reply was received from the Registrar (Judicial) permitting the petitioner to present the petition. Accordingly, this petition has been filed.

20. On the merits of the case, Shri. Sheelavant contended that though this is a case of circumstantial evidence, the following circumstances upon which the prosecution relies *prima facie* establish petitioner's complicity in the crime.

- Statements of CW.1 and CW.78 clearly disclose that there was dispute between petitioner and Madhukar. Deceased Ayyappa was a member of the Syndicate of Bengaluru University. Madhukar was the Vice-Chancellor of the Alliance University in the year 2010. Madhukar had wide experience having worked as Professor in USA and therefore he was made as the Vice-Chancellor of the University. Deceased Ayyappa was a very experienced educationist and therefore Madhukar was taking his advice. Madhukar also wanted to give 50% shares to deceased Ayyappa. Shares of Madhukar and his wife were transferred by forging their digital signatures. Ayyappa was strongly backing Madhukar and the motive was to render Madhukar weak. Therefore, Ayyappa has been eliminated.

- The next circumstance is, accused No.2 who started his career as a receptionist was elevated to the post of an executive by petitioner. Accused No.2 is a trusted lieutenant of petitioner. Accused No.2 was watching and monitoring the movements of Madhukar and Ayyappa. He was sending this information constantly to petitioner from March 2019. All messages have been retrieved from the mobile phone of accused No.2. It is significant to note that petitioner has deleted all messages and this is also a strong circumstance against him.
- The next circumstance is, accused No.2 went to petitioner's house and demanded ₹50,000/- after the crime. Petitioner borrowed amount from CW.94, Shwetha Lad. Shwetha Lad has drawn money from the ATM in mid night at 12.50 a.m. Her statement has

been recorded under Sec 164 Cr.P.C. before the Magistrate.

- The next circumstance is, three cheques drawn on Punjab National Bank issued by the petitioner have been recovered from the house of deceased. Two cheques are for ₹3 crores each and one cheque is for ₹4 crores.
- The next circumstance is, police have seized a pen drive containing the photographs of Madhukar's movement under P.F.No.107/2019.
- The next circumstance is the CC TV footage of Windsor Manor Hotel.
- The next circumstance is, recovery of machete (machchu) from accused No.2.
- The next circumstance is, CW.105, Raju Mallappa Chikkalli, an office boy working in



the house of petitioner. In his statement recorded under Section 164 Cr.P.C., before the learned Magistrate, he has stated that between 12.00 and 12.30 am in the mid night on 15.12.2019, Suraj Singh (accused No.2) had gone to petitioner's house. His T-shirt was stained with blood. Suraj Singh appeared in a disturbed mood. He gave ₹50/- to C.W. 105 and asked him to get cigarette for him. C.W.105 has further stated that at 1.45 a.m. petitioner asked him to give the car key and prepare coffee. Petitioner also instructed C.W.105 not to inform about visit of Accused No.2 to anybody.

- The other circumstances are, statements of CW.104 and CW.110; and the CC TV footage of petitioner's house.

21. Shri. Sheelavant urged that the CC TV footage of Windsor Manor Hotel strongly corroborates prosecution's case and establishes petitioner's meeting with deceased Ayyappa on 09.10.2019. The amount of ₹10 crores is a huge sum of money lent by deceased to the petitioner and a strong motive to eliminate to avoid repayment.

22. Shri. Sheelavant further urged about 80% of witnesses are from Alliance University. Petitioner is a rich and influential person. Therefore, there is strong possibility of manipulating the witnesses and prayed that this petition be dismissed.

23. I have carefully considered rival contentions and perused the records.

24. Before considering the petition on merits, let me deal with the preliminary objection

raised by the learned State Public Prosecutor that petitioner has approached this court without awaiting for the decision of Trial Court.

25. Admittedly this petition is filed while petitioner's bail application was still pending before the learned Session's Judge. Learned Public Prosecutor has placed reliance on paragraph No.17 in ***Kwmta Gwra Brahma vs. State of Assam***, reported in (2015) 3 Gauhati L.R. 453.

26. It is held by Gauhati High Court that though an application under Section 438 or 439 must be normally filed before the Sessions Court, it is not an inviolable rule. In paragraph No.18, it is held that there could be exceptional circumstances, which depend on facts and circumstances of each case.

27. Petitioner has not suppressed any fact. He has sought permission to file this petition and this Court has granted permission. Therefore, the preliminary objection is overruled.

28. The principal argument of Shri. Acharya is, though there is dispute between petitioner and Madhukar with regard to the affairs of Alliance Business School and University, petitioner has been successful in all cases between them. Allegation of Ayyappa's support to Madhukar has not affected the petitioner in any manner. Petitioner had no enmity with the deceased. Therefore the needle of suspicion cannot be pointed towards him.

29. It is settled that at the time of considering a bail application, Court shall not probe deep into the case nor evaluate the evidence. Though elaborate arguments have been

advanced on both sides, only following relevant aspects have been considered in this case.

30. The dispute between petitioner and Madhukar gave rise to O.S.No.5148/2017 (Alliance Business School vs. Madhukar G. Angur and another); and O.S.No.3932/2017 (Alliance University vs. Madhukar G. Angur and another). In both suits applications under Order 39 Rules 1 and 2 of CPC for temporary injunction were filed. By order dated 21.10.2017, the learned Trial Judge has allowed the applications and restrained Madhukar Angur and his wife from interfering in any manner in the management and affairs of administration of plaintiff's Company and University. Madhukar challenged the said orders before this Court in MFA No.8545/2017 and connected cases and the same have been dismissed. The Trial Court has recorded the following as undisputed facts. Petitioner's sisters

Smt.Shaila Govind Chabbi and Smt.Mala Gouda started a Company called Alliance Business School Pvt. Ltd., in the year 2005 with share holding of 50% each. In the suit, Alliance University has produced document to show that Shaila Chabbi and Mala Gouda transferred their shares in favour of Madhukar Angur in 2008. Shaila Chabbi and Mala Gouda resigned on 16.10.2009 and the Company was converted into Alliance University. Madhukar Angur was appointed as the Chancellor of the University. In the Board meeting held on 04.03.2015 two new Directors by name Abhay Govind Chabbi and Prakash Siddappa were appointed. Documents have been produced in the suit to show that 63,700 shares of Madhukar Angur in the Company were transferred in favour of Abhay Chabbi and 58,800 shares of Madhukar were transferred to

Mala Gouda. Thus, the dispute started after the meeting held on 04.03.2015.

31. Madhukar Angur, his wife and one Krishna Mohan filed complaint in Crime No.97/2015, 104/2015 and 105/2015 in Anekal Police Station, alleging forgery of papers and misuse of digital signatures.

32. On 07.04.2016 Madhukar Angur was dismissed from the post of Chancellor.

33. Suffice to note that, the facts recorded by the Trial Court give an indication that there is dispute with regard to the shares held by parties which decides the controlling rights in the University.

34. Prosecution has relied upon the circumstance of accused No.2, Suraj Singh sending messages and photographs showing the

movements of Madhukar and Ayyappa. The said messages show that Accused No.2 was sending minute details of movements of Ayyappa and Madhukar.

35. The seizure Panchanama of CC TV footage of Windsor Manor Hotel shows that between 14.08 hours and 16.18 hours on 09.10.2019, petitioner and Ayyappa were sitting in Hotel lounge and discussing. The CC TV is maintained by the Windsor Manor Hotel which is a reputed Five Star Hotel and in no way connected with either party.

36. Prosecution has alleged that Accused No.2, went to petitioner's house after the crime and collected ₹50,000/-. Prosecution has placed on record the statement of C.W. 94, Shweta Lad recorded in the 'in camera' proceedings under Section 164 Cr.P.C. before the learned ACMM,



Bengaluru (Court Hall No.9). C.W.94 has stated that she joined Alliance University in the year 2013 for BBA LLB course. She had met petitioner's daughter in the University. After completing the course petitioner's daughter introduced her to the petitioner for a job as Content Writer For Social Media Accounts. Petitioner and his daughter treated Shweta as a member of the family. The relevant portion of the 164 statement reads as follows:

*"On 15.10.2019 in the mid night I was visited by Mr.Sudhir Angur for his immediate request of cash ₹50,000/- for medical purposes. When I asked for what was the medical emergency, he refused to give me any details. Later I had gone to nearby my residence ATM and withdrawn the ₹25,000/- each two times and given it to Sudhir Angur. The following day I read the story in the news that Sudhir Angur was arrested for murder of Shri. Ayyappa Doraih by giving a supari. This is my statement. I have given statement*

*voluntarily without any force, coercion from anybody."*

37. The Statement of C.W. 105, Raju Mallappa Chikkalli is also recorded under Section 164 Cr.P.C. before the 26<sup>th</sup> ACMM Bengaluru on 12.12.2019. It is in Kannada language. In his statement, CW 105 has stated that he had been working in Alliance University as office boy for five years and in petitioner's house since last one year. Between 12.00 and 12.30 a.m., on 15.10.2019 accused No.2, came to petitioner's house. When he saw him, the black colour T-shirt worn by Accused No.2 was stained with blood. Accused No.2 appeared in a disturbed mood. He gave ₹50/- to C.W.105 and asked him to get cigarettes. When enquired as to why he had come at that time, Accused No.2 replied that he had come to meet the Petitioner. CW 105 went out and found that no shop was open. When he

returned to petitioner's house, Accused No.2 was not there. Petitioner asked him to give the car keys at 1.45 a.m. At about 2.00 a.m., petitioner asked him to prepare coffee and he gave it to him in a flask. Petitioner instructed C.W. 105, not to inform about the visit of Accused No.2 to anybody.

38. The three seized cheques allegedly given by petitioner to Ayyappa are drawn on Punjab National Bank and belong to A/c.No.0041009300081570. Two cheques bearing numbers 867359, 867360 are for ₹3 crores and another cheque bearing No.867361 is for ₹4 crores.

39. The amount of ₹10 crores which petitioner had allegedly received from Ayyappa is a large sum of money. No prudent person would part with signed cheques. More so in this case,

petitioner was working as Vice Chancellor of University.

40. The statement of Shweta Lad also recorded under Section 164 of Cr.P.C., shows that petitioner had gone to her house in the mid night and collected ₹50,000/-.

41. Shri. Acharya placed reliance on the following authorities.

- i) ***Sanjay Chandra vs. CBI***, reported in (2012) 1 SCC 40, and contended that bail is a rule and that petitioner has deep roots in the society and his availability for trial is certain. There is no likelihood of petitioner tampering with the evidence, as prosecution relies on digital evidence.
- ii) ***Moti Ram vs. State of M.P.***, reported in (1978)4 SCC (Cri.) 845 and also *Sanjay*

*Chandra* and urged that an accused on bail will be in a better position to defend himself.

- iii) ***Jayendra Saraswati Swamigal Vs.State of T.N.*** reported in (2005)2 SCC 13, to contend that confession of co-accused cannot be used against other accused.
- iv) ***Balkrishna Tukaram Angre Vs. State of Maharashtra*** reported in LAWS(SC)2017-9-30 to contend that petitioner is entitled for bail as prosecution's case is based on circumstantial evidence.

42. Shri. Acharya is right in his submission that, generally, 'bail is the rule and jail is exception'. So far as argument with regard to statement of co-accused is concerned, it is not tenable because, statements of CW 94 and CW 105 are not statements of 'co-accused' and

further, they have been recorded under Sec. 164 Cr.P.C.

43. In ***Prasad Shrikant Purohit v. State of Maharashtra, (2018) 11 SCC 458*** it is held as follows:

*29. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider, among other circumstances, the following factors also before granting bail; they are:*

*(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.*

*(b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.*

*(c) Prima facie satisfaction of the court in support of the charge.*

*(Emphasis supplied)*

44. The facts recorded hereinabove reveal following conspicuous circumstances:

- recovery of cheques for ₹10 crores allegedly issued by the petitioner to the deceased Ayyappa;
- Transcription of messages allegedly between Accused No.2, Suraj Singh and the petitioner and deletion of messages from petitioner's phone;
- CC TV footage of Windsor Manor Hotel shows meeting of petitioner with Ayyappa for about two hours on 9<sup>th</sup> October 2019 which is just 6 days prior to the date of incident;
- Statement of CW 105, Raju Mallappa recorded under Section 164 of Cr.P.C. shows that Accused No.2, had gone to petitioner's

house in the mid night and that his T-Shirt was stained with blood; and

- Statement of Shweta Lad also recorded under Section 164 of Cr.P.C., shows that she has drawn money from ATM in the midnight and given to Petitioner.

45. In view of above circumstances, prosecution has made out a strong prima facie case against the petitioner.

46. The offences alleged against petitioner are punishable with either death or life imprisonment.

47. There are 180 witnesses in the case and according to State Public Prosecutor, 80% of them are from Alliance University. Admittedly petitioner was last working as the Vice Chancellor of Alliance University. Therefore Shri.



Sheelavant's apprehension that there is strong possibility of tampering with witnesses is well founded.

48. In view of above discussion, this petition must fail and it is accordingly **dismissed**.

**Sd/-  
JUDGE**

SPS