

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 04TH DAY OF DECEMBER, 2020

BEFORE

THE HON'BLE MR.JUSTICE M.G.UMA

CRIMINAL PETITION NO.5264/2020

BETWEEN :

Smt.Sulaksha M Pednekar
W/o Sri.Venkatesh A.
Aged about 45 years
Residing at old No.476
New No.42, I floor
3rd Main Road, Near BBMP Office
Punyabhoomi Layout
Kalkere Village
Horamavu Post
Bengaluru-560 043.

... Petitioner

(By Sri.Ramesha V.K., Advocate)

AND :

State by Magadi Road
Police Station
Bengaluru-560 079.
Represented by SPP
High Court Building
Bengaluru-560 001.

... Respondent

(By Sri Vinayaka V.S., HCGP)

This Criminal Petition is filed under Section 438 of Cr.P.C praying to enlarge the petitioner on bail in the

event of his arrest in Cr.No.191/2019 of Magadi Road P.S., Bengaluru City for the offence P/U/S 408, 419, 420 R/W of IPC.

This Criminal Petition coming on for **orders** this day, the Court made the following:-

ORDER

The petitioner/accused No.1 is before this Court seeking grant of anticipatory bail under Section 438 of Cr.P.C. and to release her on bail in the event of her arrest in Crime No.191/2019 of Magadi Road Police Station, Bengaluru city registered for the offences punishable under Sections 408, 419 and 420 read with Section 149 of IPC against the petitioner/accused and 19 other accused on the basis of the first information lodged by the informant- Smt.Kamakshi K., Additional District Manager of Dr. B.R.Ambedkar Development Corporation, Bengaluru (hereinafter referred as 'the Corporation' for short).

2. The brief facts of the case are that the informant lodged the first information against the

accused for the above offences contending that accused No.1 being the Manager of the Canara Bank, accused Nos.2 to 9 being the employees of the Corporation and accused Nos.10 to 20 being the middle men, have misappropriated an amount of Rs.6,30,22,000/- which was released as subsidy amount to be credited to the account of the beneficiaries for the years 2016-2017 and 2017-2018, under the Job Guarantee Scheme, and IST Scheme through Canara Bank, Kalkere Branch, Bengaluru City.

3. Learned counsel for the petitioner submitted that the petitioner being the lady is innocent and law abiding citizen and she has not committed any offences as alleged. She has been falsely implicated in the matter and she is being victimized without any reason. Learned counsel further submitted that there are several employees in the Bank and their role in commission of the offence cannot be ruled out. There is absolutely no reason as

to why the present petitioner only was arraigned as accused for commission of offence. Learned counsel further submitted that crime No.146/2020 of Ramamurthy Nagar Police Station was registered against the present petitioner for having committed the similar offences, on the basis of the first information lodged by the Deputy General Manager of Canara Bank. In the said complaint also, similar allegations are made. But, it is contended that subsidy amount of Rs.7,48,17,000/- was misappropriated which was meant to be distributed amongst to the beneficiaries. Therefore, it is contended by the learned counsel that it is nothing but double jeopardy and victimization of the petitioner by multiple complaints. He further contended that in Crime No.146/2020 of Ramamurthy Nagar Police Station, the petitioner is already granted conditional order of anticipatory bail and the petitioner has obliged and complied with all such conditions. In the present case, the petitioner is

willing to abide by any of the conditions that may be imposed by this Court. The petitioner is not required for custodial interrogation and the transactions are borne out by records. He further contended that the petitioner may be granted anticipatory bail in the ends of justice. Hence, he prayed to allow the petition.

4. Per contra, learned HCGP opposing the petition, submitted that serious allegations are made as against the petitioner for having committed the offence. In Crime No.146/2020 of Ramamurthy Nagar Police Station, the Deputy General Manager of Canara Bank lodged a complaint for misappropriation of huge amount of Rs.7,48,17,000/- by the petitioner by misappropriating the subsidy amount which was meant to be distributed to 110 beneficiaries. Whereas, in the present case, the first information was lodged by the Additional District Manager of the Corporation alleging misappropriation by the petitioner as accused No.1 in collusion with the employees of the

Corporation and also with the middle men who are neither the employees nor the beneficiaries. Therefore, it is his further submission that even though the period for which the misappropriation alleged is during the period of 2016-17 and 2017-18, the allegations referred are different transactions and hence, detailed investigation is undertaken. Since the petitioner is the Manager of Canara Bank, there is every possibility of tampering with the records and misleading the Investigating Officer. Learned HCGP has also relied upon the decision of the Hon'ble Apex Court in the case of **Central Bureau of Investigation vs. V.Vijay Sai Reddy¹** to contend that where the nature of allegations made are serious in nature the accused is not entitled for bail. Accordingly, he prayed to dismiss the petition.

5. Perused the material on record in the light of the rival submissions.

¹ (2013) 7 SCC 452

6. The first informant being the Additional District Manager of the Corporation filed the first informant making serious allegations against the petitioner/accused No.1 and 19 other accused, which include employees of the Corporation and other middle men. It is alleged that an amount of Rs.6,30,22,000/- was misappropriated by the petitioner/accused No.1 which was meant for distribution to the beneficiaries under the Job Guarantee Scheme and IST Scheme, by transferring the same to the accounts of the middle men. In Crime No.146/2020 of Ramamurthy Nagar Police Station, the Deputy General Manager of the Canara Bank himself lodged first information against the petitioner alleging misappropriation of huge amount of Rs.7,48,17,000/- which was meant to be distributed as subsidy to 110 beneficiaries under various schemes for the period from 2016-17 and 2017-18. Even though, the allegations of misappropriation is similar, it discloses

serious allegations of misappropriation of huge amount of public money by the petitioner as alleged. The contention of the learned counsel for the petitioner that the petitioner is being victimized as she is a lady, cannot be accepted at this stage. When there is allegation of misappropriation of public money by public servant, the same cannot be considered so lightly, that too when prima-facie materials are placed before the Court in support of such allegations. The Hon'ble Court in V.Vijay Sai Reddy (supra), while considering the request made by CBI for cancellation of the bail granted in favour of one of the accused, has held in paragraph 34 read as under:

"34. 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 trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature had used the words "*reasonable grounds for believing*" instead of "*the evidence*" which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."

7. In the present case, admittedly, the investigation is in the initial stage. The petitioner is arraigned as accused No.1 being the Manager of the Canara Bank who acts in the fiduciary capacity. There is an allegation of involvement of the employees of

the Corporation and also middle men in usurping the public money, released in the form of subsidy, in favour of the beneficiaries. Therefore, the allegation is serious in nature and it requires detailed investigation. Therefore, I am of the considered opinion that the petitioner is not entitled for grant of anticipatory bail. Hence, the petition is ***dismissed***.

Sd/-
JUDGE

KA