IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 17TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MS. JUSTICE J.M.KHAZI

CRIMINAL PETITION NO.103696 OF 2024

(439(Cr.PC)/483(BNSS))

BETWEEN:

NEELKANT S/O. MARUTI MESTA,
AGE. 45 YEARS,
OCC. CHIEF OFFICER TMC BHATKAL,
R/O. R C CHURCH STREET, HONNAVARA,
DIST. UTTARAKANNADA.

...PETITIONER

(BY SRI GANAPATI M.BHAT, ADVOCATE)

AND:

THE STATE OF KARNATAKA
BY ITS POLICE INSPECTOR,
KARNATAKA LOKAYUKTA,
UTTARAKANNADA, KARWAR,
REPRESENTED BY
SPECIAL PUBLIC PROSECUTOR,
HIGH COURT BUILDING, DHARWAD-011.

...RESPONDENT

(BY SRI SANTOSH MALAGOUDAR, SPL. PP)

Digitally signed by MOHANKUMAR B SHELAR
Location: HIGH COURT OF KARNATAKA

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. (483 OF BNSS), SEEKING TO ALLOW THE PETITION FILED UNDER SECTION 483 OF BNSS AND ENLARGE THE PETITIONER/ACCUSED ON REGULAR BAIL IN CRIME NO.05/2024 OF KARWAR LOKAYUKTA POLICE STATION PENDING ON THE FILE OF PRINCIPAL DISTRICT AND SESSIONS AND SPECIAL JUDGE, UTTARAKANNADA, AT KARWAR, FOR THE OFFENCES PUNISHABLE UNDER SECTION 7(A) OF PREVENTION OF CORRUPTION ACT, 1988 (AMENDMENT-2018) AND ETC.,

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

CORAM: THE HON'BLE MS. JUSTICE J.M.KHAZI

ORAL ORDER

(PER: THE HON'BLE MS. JUSTICE J.M.KHAZI)

Petitioner who is arraigned as accused has filed this petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) (439 of Cr.P.C.) to grant him regular bail in Crime No.05/2024 of respondent PS, for the offence punishable under Section 7(a) of Prevention of Corruption Act, 1988 (Amendment Act – 2018).

2. In support of the petition, the petitioner has contended that he has not committed the offences and has been falsely implicated. There was no demand and acceptance. The tainted money is not recovered from the petitioner. The same is seized from the driver of the Town Municipal Corporation. The maximum punishment prescribed for the offence, under Section 7(a) of Prevention of Corruption Act is punishable with imprisonment for seven years. The petitioner is

suffering from blockage of coronary arteries and is on medication. He requires immediate surgery. He is the only earning member of the family. Already substantial portion of investigation is completed. Petitioner is ready and willing to abide by any conditions that may be imposed and offer substantial surety to the satisfaction of the Trial Court and hence, the petition.

3. The learned Special Public Prosecutor representing the respondent Lokayukta submitted oral objections stating that petitioner is working as Chief Officer, TMC, Bhatkal. A complaint came to be filed against the petitioner stating that when complainant Mohtesham Muhammad Idress applied for Form No.3 and UGD connection, Form No.3 was not issued on the ground that there is outstanding tax. When Shakeel Mohtesham met the accused and enquired about the outstanding tax, he said that Rs.2,00,000/- is

required. As per the directions of his uncle, complainant paid Rs.2,00,000/- into the hands of Shakeel Mohtesham. He paid the said sum to the accused. However, accused issued receipts for only Rs.90,068/-. He neither paid the balance amount nor Form No.3 is issued. The UGD connection is also not given.

3.1. On 12.11.2024 when Shakeel Mohtesham, once again met the accused, he demanded Rs.1,00,000/-. Even though the President of the TMC Bhatkal called the accused and advised him to issue Form No.3 and UGD connection, he has not obliged. On the other hand, he is demanding Rs.1,00,000/-. He is also directed payment of Rs.50,000/- advance. This conversation is video recorded by the complainant. Not willing to pay the bribe amount, complaint is filed.

3.2. On the basis of the complaint, case is registered. Successful trap was laid, wherein after

receiving the bribe amount, the petitioner has handed it over to his driver, Shankar Nagappa Nayak. Petitioner was arrested and produced before the trial Court with remand application. The investigating officer has taken the driver of the petitioner as witness. A strong prime facie case is made out against the petitioner. Investigation is in progress. In the event of granting bail, the petitioner may tamper with the witnesses and pray to reject the petition.

4. Heard arguments and perused the record.

5. The undisputed fact is that at the relevant point of time, petitioner was working as Chief Officer, TMC, Bhatkal. When complainant's uncle applied for Form No.3 and UGD connection to his house and through his friend, Shakeel Mohtesham approached the accused, he was told that unless the outstanding tax is paid Form No.3 would not be issued. They were told that Rs.2,00,000/- is the outstanding tax.

However, when Rs.2,00,000/- was paid to the accused, he issued receipts for only Rs.90,068/-. He also did not give the UGD connection.

6. When again petitioner was approached and enquired about the UGD connection, he demanded bribe of Rs.1,00,000/- and insisted that Rs.50,000/- shall be paid in advance. The complainant got video recorded the conversation with petitioner. Not willing to pay the bribe, he lodged the complaint. A successful trap was laid. After receiving the tainted notes, petitioner has handed over the envelope containing the notes to the hands of his driver Shankar Nayak. The hand wash of both petitioner and his driver gave positive result for the presence of phenapthalene. The driver of the petitioner is treated as a witness. Detailed post trap Mahazar is drawn.

7. The conversation between the complainant and accused are copied in the laptop and staff of the

petitioner has identified the same as that of the petitioner. The petitioner was arrested and produced before the trial Court and remanded to judicial custody. The date of trap is 15.11.2024. By now, it could be reasonable to expect that substantial portion of the investigation is completed. In the normal course, the trapped official would be suspended. The maximum punishment prescribed is imprisonment up to 7 years. Of course in the event of granting bail, there may be chances of petitioner threatening or tempering with the witnesses. However, the same may be overcome by imposing conditions. For the above reasons, this Court is of the considered opinion that petitioner is entitled for bail subject to conditions and accordingly, the following;

ORDER.

Petition filed by the petitioner/accused is allowed. Petitioner/accused is released on bail

in Crime No.05/2024 of respondent PS, for the offence punishable under Section 7(a) of Prevention of Corruption Act, 1988 (Amendment Act – 2018) subject to following:

CONDITIONS

a) The petitioner/accused shall execute a personal bond in a sum of Rs.50,000/- with two sureties for the like-sum.

b) He shall furnish his residential address proof and shall inform the investigating officer/Court if there is any change in the address.

c) He shall not threaten or tamper with the prosecution witnesses either directly or indirectly.

d) He shall not indulge in any criminal activities.

e) He shall be regular in attending the Court proceedings.

Sd/-
(J.M.KHAZI)
JUDGE

VMB, CT: UMD
List No.: 1 Sl No.: 23