



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH
DATED THIS THE 9TH DAY OF MAY, 2024
BEFORE
THE HON'BLE MR JUSTICE ANANT RAMANATH HEGDE
CRIMINAL PETITION NO.101262 OF 2024 (439)

BETWEEN:

1. SHRI. HEBBALAPPA S/O. VENKAPPA DEVANNAVAR
AGE: 45 YEARS, OCC: AGRICULTURE,
R/O: AMMA NAGAR, MUDALGI,
DIST: BELAGAVI-591317.
2. SHRI. CHIDANAND S/O. BHIMAPPA ARABHAVI
AGE: 41 YEARS, OCC: KEB SERVANT,
R/O: KALLOLI, NEAR CHUNMINATTI CANAL,
MUDALGI, DIST: BELAGAVI-591317.
3. SHRI. HANAMANT S/O. MAHADEV ATAMATTI
AGE: 43 YEARS, OCC: AGRICULTURE,
R/O: HALLUR, TQ: MUDALGI,
DIST: BELAGAVI-591317.

...PETITIONERS

(BY SRI.ROHIT NAGESH LATUR, ADVOCATE)

AND:

THE STATE OF KARNATAKA, COMPLAINANT
R/BY MUDALGI P.S., TQ/DIST: BELAGAVI,
THROUGH HCGP,
HIGH COURT OF KARNATAKA,
DHARWAD BENCH, DHARWAD-591317.

...RESPONDENT

(BY SMT.KIRTI LATA R.PATIL, HCGP)

THIS CRIMINAL PETITION IS FILED U/S 439 OF CR.P.C.,
SEEKING TO ENLARGE THE PETITIONER ACCUSED NO.2 TO 4 ON
BAIL RELATION TO MUDALGI PS CR. NO.39/2024 FOR ALLEGED
OFFENCES P/U/S 420, 511 R/W 34 OF IPC ON THE FILE OF CIVIL
JUDGE AND JMFC MUDALAGI.

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





ORDER

The petition under Section 439 of Cr.P.C. is filed by the petitioners seeking bail in connection with Crime No.39/2024 in Mudalgi Police Station, Belagavi District.

2. The complaint dated 16.03.2024 is lodged by the Police Sub-Inspector, Mudalgi against four accused. The petitioners are accused No.2 to 4. The offences alleged against the accused are under Sections 420 and 511 read with 34 of Indian Penal Code. The complaint would reveal that the complainant received information from a source and it is stated that the accused are inducing persons to deliver cash on the pretext that in exchange they would handover black papers which after wash would convert itself into a valid currency. It is further alleged that the complainant on receipt of information went to the place where the accused were carrying out the alleged illegal activity and it is further stated that the accused were sitting in a car bearing Reg.No.KA-19-MF-6658. It is further stated that on seeing



the police, the accused ran away and despite best efforts made by the police, the police could not catch hold of the accused persons. It is further stated that the police conducted panchanama and they recovered two gunny bags kept in the boot of the car and inside the gunny bags they recovered black papers which have been cut in the size of various currency notes. It is further stated in the complaint that the persons who were standing in front of the car had come to collect black papers in exchange of valid currency. Based on this, complaint and FIR are registered in Crime No.39/2024. It is further stated that all the four accused were arrested on 16.03.2024.

3. The petitioners filed bail application before the JMFC at Mudalgi in Crime No.39/2024. The said application filed by the petitioners was rejected vide order dated 19.03.2024. Hence, the petitioners who are accused No.w to 4 are before this Court.

4. Learned counsel for the petitioners would submit that to attract Section 420 of Indian Penal Code,



the complaint must disclose that the accused has induced persons to deliver the property and there is nothing in the complaint to hold that the property is delivered to the accused. It is also his further submission that both the offences, namely offences under Sections 420 and 511 of Indian Penal Code carry a maximum punishment of 7 and three years and unless a notice is issued under Section 41-A of Code of Criminal Procedure, the accused could not have been arrested. It is his submission that no notice is issued under Section 41-A of Code of Criminal Procedure. It is also his submission that the persons who are said to have been cheated have not been named in the complaint and even the complaint does not disclose that any person is cheated by the accused. Thus, he would pray to allow the petition.

5. Learned High Court Government Pleader would submit that the complaint is registered based on credible information and FIR is also registered and thereafter the police went to the spot of commission of offence and after



seeing the police the accused ran away from the spot by leaving the Alto car in which they were carrying illegal acts. It is also her submission that black papers which are in the size of currency notes have been recovered from the place and investigation is on. It is also her contention that the money is also recovered from the accused and as such a case is made for dismissal of the bail application.

6. This Court has considered the contentions raised at the bar and perused the records.

7. Admittedly, the complaint is lodged under Sections 420 and 511 of Indian Penal Code. The maximum punishment that can be awarded for an offence under Section 420 is seven years imprisonment. Under Section 511 attempt to commit the offence will carry a punishment which is equivalent half of the punishment prescribed for commission of an offence. Since the offence under Section 420 carries imprisonment for a period of seven years at maximum, the attempt to commit the offence under



Section 511 will carry a punishment of 3½ years at maximum.

8. On going through the statements made in the complaint, it is apparent that the complaint does not disclose delivery of the property by the persons said to have been cheated by the accused. It is also relevant to note that the complaint does not disclose the names of any of the persons who are said to have been cheated. Though it is forthcoming in the complaint that few people had gathered before the car where the accused were said to be carrying their activity, those persons are not named.

9. It is relevant to note that the respondent/prosecution has not issued a notice under Section 41-A of Code of Criminal Procedure before arresting the accused. After going through the contents of the complaint, it is very much apparent that prima facie ingredients of Section 420 are not attracted as there is no averment in the complaint to say that the accused were successful in inducing certain person or persons to deliver



property. This being the position, this Court is of the view that a case is made out for grant of bail and accordingly criminal petition is allowed subject to following conditions:

- (i) Petitioners shall be enlarged on bail in Mudalgi P.S. Crime No.39/2024 on executing a personal bond for Rs.50,000/- each and each of the petitioners shall also furnish a security of an independent surety for the likesum to the satisfaction of trial Court.
- (ii) Petitioners shall attend the jurisdictional police station once in a week till completion of investigation.
- (iii) Petitioners shall co-operate with the Investigating Officer and shall attend the police station whenever required.
- (iv) Petitioners shall not tamper with prosecution witnesses and evidence.

**Sd/-
JUDGE**