

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JANUARY, 2022

BEFORE

THE HON'BLE MR. JUSTICE H.P. SANDESH

CRIMINAL PETITION NO.289/2022

BETWEEN:

1. KESHAHA M.P.,
S/O PUTTASWAMIAH,
AGED ABOUT 34 YEARS.
2. PAVITHRA SURESH,
W/O KESHAHA M.P.,
AGED ABOUT 32 YEARS.

BOTH ARE RESIDING AT NO.116,
3RD MAIN, 3RD, CROSS WARD NO.27,
VIVEKANANDANAGARA,
NEAR H.P.GAS OFFICE,
RAMANAGARAM DISTRICT -562159. ...PETITIONERS

(BY SRI LAKSHMIKANTH K, ADVOCATE)

AND:

STATE OF KARNATAKA BY
SAMPIGE HALLI POLICE STATION,
BY ITS PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BANGALORE-560 001. ...RESPONDENT

(BY SRI H.S. SHANKAR, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 438
OF CR.P.C PRAYING TO ENLARGE THE PETITIONERS ON BAIL IN
THE EVENT OF THEIR ARREST IN CR.NO.190/2021 REGISTERED
BY SAMPIGEHALI POLICE STATION, BENGALURU FOR THE

OFFENCE PUNISHABLE UNDER SECTIONS 403, 406, 408, 409, 418, 420 READ WITH 34 OF IPC, PENDING ON THE FILE OF IV ADDL.C.M.M., BENGALURU.

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

ORDER

This petition is filed under Section 438 of Cr.P.C. praying this Court to enlarge the petitioners on bail in the event of their arrest in respect of Crime No.190/2021 registered by the Sampigehalli Police Station, Bengaluru, for the offence punishable under Sections 403, 406, 408, 409, 418, 420 read with 34 of IPC.

2. Heard the learned counsel for the petitioners and the learned High Court Government Pleader appearing for the respondent-State.

3. The factual matrix of the case is that petitioner No.1 was working as Territory Manager in the IIFL Company and they used to keep the pledged articles and disburse the loan amount and when the pledged articles were examined, came to know that fake articles were pledged and some of the gold articles are missing and hence suspected the role of the petitioner No.1 and

also other employees accused Nos.2 to 4. Accused No.5 is the wife of petitioner No.1 and they indulged in such acts. Based on the complaint, the police have registered the case against the petitioners and also other accused persons for the offence punishable under Sections 403, 406, 408, 409, 418, 420 read with 34 of IPC.

4. The learned counsel for the petitioners would submit that these two petitioners, who happens to be the husband and wife have not indulged in any such offence and the alleged incident was taken place on 01.07.2021 and the complaint was lodged on 18.09.2021 and no specific allegations are made in the complaint and also worth of the criminal breach of trust is also not mentioned in the complaint. Only with an oblique motive, a false case has been registered against the petitioners.

5. Per contra, the learned High Court Government Pleader appearing for the respondent-State would submit that specific allegations are made in the complaint that these two petitioners who are the husband and wife have indulged in committing the offence of criminal breach of trust and some of the gold articles which were pledged were missing and when

such allegations are made, it is not a fit case to exercise the discretion in favour of the petitioners.

6. Having heard the learned counsel for the petitioners and the learned High Court Government Pleader appearing for the respondent-State and also on perusal of the contents of the complaint, though allegation is made with regard to breach of trust is concerned against this petitioner and also against other employees, nothing is stated in the complaint about the total amount of criminal breach of trust for committing fraud. When such being the factual aspects of the case, it is a fit case to exercise the powers under Section 438 of Cr.P.C. and this Court can direct the petitioners to assist the Investigating Officer during the course of investigation.

7. In view of the discussions made above, I pass the following:

ORDER

The petition is allowed. Consequently, the petitioners shall be released on bail in the event of their arrest in connection with Crime No.190/2021 registered by the Sampigehalli Police Station, Bengaluru, for the offence punishable under Sections

403, 406, 408, 409, 418, 420 read with 34 of IPC, subject to the following conditions:

- (i) The petitioners shall surrender themselves before the Investigating Officer within ten days from the date of receipt of a certified copy of this order and shall execute a personal bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs only) each with two sureties each for the like-sum to the satisfaction of the concerned Investigating Officer.
- (ii) The petitioners shall not indulge in hampering the investigation or tampering the prosecution witnesses.
- (iii) The petitioners shall co-operate with the Investigating Officer to complete the investigation and they shall appear before the Investigating Officer, as and when called for.
- (iv) The petitioners shall not leave the jurisdiction of the Investigating Officer without prior permission till the charge-sheet is filed or for a period of three months, whichever is earlier.
- (v) The petitioners shall mark their attendance once in a month i.e., on 30th of every month between 10.00 a.m. and 5.00 p.m., before the

Investigating Officer for a period of three months or till the charge-sheet is filed, whichever is earlier.

**Sd/-
JUDGE**

MD