



**IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH**  
**DATED THIS THE 11<sup>TH</sup> DAY OF JANUARY, 2024**  
**BEFORE**  
**THE HON'BLE MR JUSTICE S.VISHWAJITH SHETTY**  
**CRIMINAL PETITION NO. 103706 OF 2023 (438)**

**BETWEEN:**

SABU HUSEN :

...PETITIONER

(BY SRI MAQBOOLAHMED M. PATIL, ADVOCATE FOR  
SRI MOHAMMED AZARUDDIN M)

**AND:**

STATE OF KARNATAKA

...RESPONDENT

(BY SRI RANGSWAMY R., HCGP)

THIS CRIMINAL PETITION IS FILED U/SEC. 438 OF CR.P..C  
SEEKING TO GRANT ANTICIPATORY BAIL FOR THE PETITIONER  
WHO ARE ARRAYED AS ACCUSED IN CRIME NO. 144/2023  
REGISTERED IN SIRUGUPPA P.S. PENDING BEFORE PRL. CIVIL  
JUDGE (JN.DN) AND JMFC COURT, SIRUGUPPA, BALLARI FOR THE  
OFFENCES P/U/SEC. 67 OF INFORMATION TECHNOLOGY ACT  
2008.

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





**ORDER**

1. Accused in Crime No.144/2023 registered by the Siruguppa police station, Ballari district for the offence punishable under Section 67 of the Information Technology Act, 2008, is before this Court under Section 438 of Cr.P.C.

2. Heard the learned counsel for the parties.

3. On the basis of the report dated 21.07.2023 submitted by the sub-inspector of police, Station House Officer, Siruguppa police station, had registered FIR in Crime No.144/2023 for the aforesaid offence against the owner of the mobile phone bearing Mobile No.9902107824. Apprehending arrest in the said case, petitioner had filed CrI.Misc.No.617/2023 before the Court of the District and Sessions Judge, Ballari, which was rejected on 19.09.2023. Therefore, he is before this Court.

4. Learned counsel for the petitioner submits that he had no intention to commit any offence and he had only forwarded the message, which he had received in the group known as 'Hum Sath Sath Hain'. The maximum



punishment for alleged offence is imprisonment for a period of 3 years. The petitioner has no criminal antecedent. Therefore, he prays to allow the petition.

5. Per contra, learned High Court Government Pleader has opposed the bail application. He submits that there is sufficient material to connect the petitioner to the crime.

6. In the report dated 21.07.2023, the sub-inspector of police attached to Siruguppa police station, has stated that when he was in the police station, the Head Constable-Chinnappa had informed him that from the mobile phone bearing No.9902107824, a whatsapp picture was posted in the group known as 'hum sath sath hain'. After seeing the said picture, the informant had submitted a report based on which FIR in Crime No.122/2022 was registered against the owner of the mobile phone bearing the aforesaid number for the offence punishable under Section 67 of the Information Technology Act. Perusal of the picture, which was allegedly forwarded from the petitioner's mobile phone, it is seen



that the said picture relates to half naked women covered with National Flag depicting the incident that had taken place in Manipur State.

7. Learned counsel for the petitioner has submitted that the petitioner had no intention and he only forwarded the message, which was received by him in his mobile phone. The maximum punishment for the alleged offence is imprisonment for a period of 3 years. Undisputedly the petitioner has no criminal antecedent. Under these circumstances, I am of the opinion that the prayer made by the petitioner for grant of anticipatory bail is required to be answered in the affirmative. Accordingly, the following:

**ORDER**

Petition is allowed. The petitioner is directed to be enlarged on bail in the event of his arrest in Crime No.144/2023 registered by the Siruguppa police station, Ballari district for the offence punishable under Section 67 of the Information Technology Act, subject to the following conditions:



- i. Petitioner shall execute a personal bond for a sum of Rs.1,00,000/- with 01 surety for the like-sum to the satisfaction of the Investigating Officer.
- ii. Petitioner shall regularly appear before the Trial Court without fail unless exempted by the Trial Court for valid reasons.
- iii. Petitioner shall not tamper with the prosecution witnesses either directly or indirectly.
- iv. Petitioner shall co-operate with the Investigating Officer for the purpose of investigation in the case.

**Sd/-**  
**JUDGE**

KGK  
List No.: 1 SI No.: 28