

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF NOVEMBER, 2022

BEFORE

THE HON'BLE MR. JUSTICE RAJENDRA BADAMIKAR

CRIMINAL PETITION NO.9966/2022

BETWEEN:

1. SMT. UMADEVI MURUGESH
2. BASAVARAJ

...PETITIONERS

(BY SRI. M.S.R. PRASAD SENIOR COUNSEL
FOR SRI. GOVINDARAJU.S.P, ADVOCATE)

AND:

STATE OF KARNATAKA
REP. BY VIDHANA SOUDHA POLICE STATION
BANGALORE-560 001
REP. BY THE PUBLIC PROSECUTOR
HIGH COURT COMPLEX
BANGALORE-560 001

...RESPONDENT

(BY SMT. RASHMI JADHAV, HCGP)

THIS CRL.P. IS FILED UNDER SECTION 438 CR.P. PRAYING
TO ENLARGE THE PETITIONERS ON BAIL IN CR.NO.44/2022 OF
VIDHANA SOUDHA P.S, BANGALORE FOR THE OFFENCE P/U/S 420

465, 468 OF IPC ON THE FILE OF THE LIX ADDL. CITY CIVIL & SESSIONS JUDGE, BANGALORE CITY (CCH-60).

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

ORDER

This petition is filed by the petitioners under Section 438 of Cr.P.C. seeking anticipatory bail in the event of their arrest in Crime No.44 of 2022 of Vidhana Soudha Police Station, Bengaluru for the offences punishable under Sections 420, 465, 468 of IPC.

2. Heard the arguments of learned Senior counsel for the petitioners and learned High Court Government Pleader for the respondent-State and perused the records.

3. The brief factual matrix leading to the case is that;

The complainant had filed Writ Petition bearing No.56012/2015 and RSA No.50/2017 in this High Court. She has engaged accused No.1 to prosecute both the cases and in this regard she has paid a sum of Rs.10,00,000/- to accused No.1 and petitioners by way of Demand Draft, Cash and

Cheques. It is further alleged that accused No.1 had sent Court orders by Whats App message bearing the seal of the High Court as well as signature of the Registrar. When the complainant has checked the same in the High Court website, it was found that the orders were not there. Then when she enquired with accused No.1, it is asserted that due to Corona, certain orders were not uploaded. However, the complainant then suspected that they appears to be fake orders and she approached accused No.1. But accused No.1 on the contrary abused her in filthy language and then she asked accused No.1 to return her case's files as well as amount of Rs.10,00,000/- received by her. But accused No.1 did not refund the said amount. Hence complainant has filed complaint on 04.07.2022 before the concerned jurisdictional police and crime came to be registered.

4. The present petitioners are the wife and son of accused No.1 and it is also alleged that they have also received certain amount from the complainant. They have approached the learned Sessions judge seeking anticipatory

bail but Sessions Judge has rejected the bail petition. Therefore, the petitioners are before this Court.

5. Having heard the arguments and perusing the records, it is evident that accused No.1 is a legal practitioner and complainant has entrusted writ petition No.56012/2015 and RSA No.50/2017 to him to prosecute on her behalf. Further she has alleged to have given Rs.10,00,000/- to him. Though it is alleged that amount was paid to the present petitioners also, but prima-facie no material evidence is placed to show that the present petitioners have received any amount from the complainant. Further the present petitioners are not legal practitioners. The allegation does disclose that it is only accused No.1 who has forged the Court's orders and sent through Whats App to the complainant.

6. Though there is allegation in the complaint that the amount is also paid to the present petitioners also, but prosecution has not produced any scrap of paper to show that any amount was deposited to the account of the present petitioners. Petitioner No.2 is the woman and petitioner No.3

is the student. Petitioner No.2 falls under exception. The offences alleged are not exclusively punishable with death or life imprisonment, and are triable by the learned Magistrate. Further the main allegation regarding forgery and cheating is against accused No.1.

7. Under these circumstances, I do not find any impediment for admitting the petitioners on bail. The other apprehensions raised by the learned HCGP can be meted by imposing certain conditions. Hence, the petition needs to be allowed by imposing certain stringent conditions. Accordingly, I proceed to pass the following:-

ORDER

The petition is **allowed**.

The petitioners/accused Nos.2 and 3 are directed to be enlarged on bail in event of their arrest, in Crime No.44/2022 of Vidhana Soudha Police Station, registered for the offences punishable under Sections 420, 465, 468 of IPC on each of them executing personal bond for a sum of Rs.1,00,000/-

(Rupees One Lakhs only) with one surety for the like-sum to the satisfaction of the Investigating Officer/SHO, subject to the following conditions:

- (i) *Petitioners shall surrender before the Investigating Officer/SHO within 15 days from the date of receipt of the certified copy of the order and in the event of their surrender, the Investigating Officer/SHO shall release the petitioners as directed above.*
- (ii) *Petitioners shall not indulge in similar offences strictly;*
- (iii) *Petitioners shall not tamper with the prosecution witnesses directly/ indirectly;*
- (iv) *Petitioners shall co-operate with Investigating Officer and appear before him as and when directed during the course of investigation.*

Sd/-
JUDGE