

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF OCTOBER, 2022

BEFORE

THE HON'BLE MR. JUSTICE RAJENDRA BADAMIKAR

CRIMINAL PETITION NO.8879/2022

BETWEEN:

SRI OM PRATAP SINGH

...PETITIONER

(BY SRI R. GOPALA KRISHNAN, ADVOCATE)

AND:

THE STATION HOUSE OFFICER
CYBER AND ECONOMIC WING CRIME PS
RAMANAGARA, KARNATAKA.

...RESPONDENT

(BY SMT. RASHMI JADHAV, HCGP)

THIS PETITION IS FILED U/S 438 OF CR.P.C, PRAYING TO ENLARGE THE PETITIONER ON BAIL IN THE EVENT OF HIS ARREST IN CR.NO.100/2022 OF RAMANAGARA CEN CRIME POLICE STATION, RAMANAGARA DISTRICT FOR THE OFFENCE P/U/S 419,420 OF IPC AND SECTION 66(C) and 66(D) OF I.T ACT.

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

ORDER

This petition is filed by the petitioner/Accused under Section 438 of Cr.P.C. seeking anticipatory bail, in the event of his arrest in Crime No.100/2022 of Ramanagara CEN Crime Police Station, registered for the offences punishable under Sections 419, 420 of IPC and under Sections 66(C) and 66(D) of Information Technology Act, 2008, pending on the file of the Prl. Civil Judge (Jr.Dn) & JMFC Court, Magadi, Ramanagara.

2. The brief factual matrix leading to the case are that on 13.07.2022, the complainant has lodged a complaint alleging that since last six months she was doing business of lamp oil in respect of which, she has opened the bank account in the Axis Bank, Kumaraswamy layout branch. It is further alleged that in respect of manufacturing of the lamp-oil, when she searched in the

Google for liquid paraffin, she came in contact with the present petitioner-accused who was dealing with supply of paraffin and by e-mail transaction she initially paid Rs.52,39,400/- in two installments by way of NEFT to the account of the petitioner-accused but the petitioner-accused supplied the goods worth of Rs.26,31,611/- only. Subsequently, it is further alleged that the petitioner has not supplied the goods for remaining amount of Rs.26,07,800/-. Hence, she tried to contact him several times through the mobile-phone and the petitioner did not respond for the same. Hence, she was constrained to lodge a complaint. On the basis of the said complaint, a case came to be registered against the petitioner-accused and as such the petitioner apprehending his arrest has approached the Prl. Civil Judge (Jr.Dn) & JMFC Court, Magadi, Ramanagara and the learned Civil Judge rejected the anticipatory bail petition filed by the petitioner. Hence, the petitioner is before this Court.

3. Heard the learned counsel for the petitioner/Accused and the learned HCGP for the Respondent-State. Perused the records.

4. The learned counsel for the petitioner/Accused would contend that, the petitioner-accused does not have any intention of cheating the complainant. He contends that he has to get the goods from the foreign country and due to the war between the Ukrain and Russia, there was delay in supply of the consignment to him and as such he could not supply the goods to the complainant. It is further contended that as the petitioner has invested the amount with the concerned company at this juncture, he could not pay the amount now. It is also submitted that subsequently, the petitioner has remitted Rs.8 Lakhs to the account of the complainant which is received by her and for remaining amount of Rs.16 Lakhs he would undertake to pay the same in the due course. He also undertakes to abide by all the terms and conditions to be imposed by this Court.

5. Per contra, the learned HCGP would contend that the petitioner is a habitual offender and this can be traced through the google search wherein the review discloses that he has cheated number of persons in this regard and hence, he would contend that

this is not a fit case to exercise the discretion in favour of the petitioner and sought for dismissal of the bail petition.

6. The complaint was registered for the offence punishable under Sections 419, 420 of IPC and under Sections 66(C) and 66(D) of Information Technology Act, 2008. However, 419 of IPC is not attracted in the instant case as there is no impersonation and the only allegation is that inspite of receiving the amount for supply of the goods, the petitioner has not supplied the same which is subject to allegation of cheating. However, further records discloses that the petitioner has subsequently remitted Rs.8 Lakhs to the account of the complainant which is admitted by the prosecution. The argument addressed by the learned HCGP that the google search discloses that the petitioner has cheated number of persons which is evident from the review cannot be accepted as it does not have any legal evidentiary value. However, the record discloses that there is some transaction between the parties and now the learned counsel for the petitioner has also undertakes to pay the balance amount in due course as 1/3rd of the amount is already returned to the complainant.

7. Looking into these facts and circumstances, I do not find any impediment to admit the petitioner for anticipatory bail and the apprehension raised by the learned HCGP can be meted-out by imposing certain conditions.

8. Hence, the bail petition needs to be allowed and accordingly, I proceed to pass the following:-

ORDER

The petition is **allowed**. The petitioner/Accused is directed to be enlarged on bail in the event of his arrest in Crime No.100/2022 of Ramanagara CEN Crime Police Station, registered for the offences punishable under Sections 419, 420 of IPC and under Sections 66(C) and 66(D) of Information Technology Act, 2008, pending on the file of the Prl. Civil Judge (Jr.Dn) & JMFC Court, Magadi, Ramanagara, on executing personal bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with one surety for the like-sum to the satisfaction of the Investigating Officer or the concerned trial Court, subject to the following conditions:

- i) Petitioner shall surrender himself before the Investigating Officer within fifteen days from the date of receipt of a certified copy of this order and in the event of surrender, Investigating

Officer/SHO shall release him on bail as directed.

- ii) He shall not directly or indirectly tamper with any of the prosecution witnesses.
- iii) He shall not indulge in any similar offences.
- iv) He shall make himself available to the Investigating Officer for interrogation whenever called for during course of investigation and co-operate with the investigating agency.
- v) He shall mark his attendance before the Investigating Officer/SHO between 9.00 a.m. and 5.00 p.m. on every first Monday of the month till the final report is submitted.

**Sd/-
JUDGE**

HR