IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF AUGUST, 2022

BEFORE

THE HON'BLE MR. JUSTICE K.NATARAJAN

CRIMINAL PETITION NO.5614 OF 2022

BETWEEN

B. T. RAJU
S/O. B. THIMMAPPA,
AGED ABOUT 59 YEARS,
R/AT NO. 546/N,
11TH CROSS, VINAYAK LAYOUT,
NAGARABAVI 2ND STAGE,
BENGALURU-560 072. …PETITIONER

(BY SRI. C.V. NAGESH, SENIOR ADVOCATE
FOR SRI. RAGHAVENDRA K., ADVOCATE)

AND

STATE OF KARNATAKA
ACB POLICE,
REPRESENTED BY SPP,
HIGH COURT BUILDING,
BENGALURU-560 001. …RESPONDENT

(BY SRI. MANMOHAN P.N., SPECIAL PUBLIC PROSECUTOR)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF THE CODE OF CRIMINAL PROCEDURE, PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.49/2022 REGISTERED BY A.C.B. POLICE STATION, BENGALURU FOR THE OFFENCE PUNISHABLE UNDER SECTION 7(A) OF PREVENTION OF CORRUPTION ACT, 1988 AND ITS AMENDMENT ACT, 2018, PENDING ON THE FILE OF CITY CIVIL AND SESSIONS JUDGE (CCH-24 M.S. BUILDING).

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 01.08.2022 THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed by the accused under Section 439 of Cr.P.C. for grant of regular bail in Crime No.49/2022 registered by ACB Police, Bangalore for the offence punishable under Section 7(a) of Prevention of Corruption Act, 1988 (hereinafter referred to as 'PC Act').

2. Heard the arguments of learned Senior Counsel appearing for the petitioner's counsel and Special Public Prosecutor for the respondent-ACB.

3. The case of prosecution is that on the complaint of one Manjunath, the respondent-police registered the case for the aforesaid offence. It is alleged in the complaint that the complainant Manjunath, who is said to be the GPA holder of Suvvalal Jain and Suresh Chand Jain, filed an application before the BDA for providing an alternate site for having utilised the land measuring 33 guntas in Sy. No.206 situated at Kengeri village from the

aforesaid two persons by the BDA for formation of road without any acquisition proceedings. When the application was filed by the complainant, the petitioner-accused being the Assistant Engineer of BDA, demanded amount of Rs.1.00 crore and the petitioner has bargained to receive Rs.60.00 lakhs and accordingly, Rs.5.00 lakhs was handed over by the defacto complainant on 07.06.2022. The petitioner was trapped by the ACB and Rs.5.00 lakhs was seized from his possession and he was arrested and remanded to judicial custody. His bail petition came to be rejected by the Special Judge and hence he is before this Court.

4. The learned Senior Counsel for the petitioner contended that the petitioner is innocent of the alleged offence and he has been falsely implicated by the complainant. It is contended that the original land owners filed an application on 08.06.2022 seeking alternative land and they withdrew the said application and therefore, prosecution has not made out any ground of demand and

acceptance of bribe by the petitioner and the work entrustment also not pending with the petitioner. The concerned file was with the Additional Executive Engineer but not with this petitioner. The petitioner is in custody for almost more than $1^1/_2$ months. The petitioner has no role to play in passing any orders. Mere acceptance of the amount cannot be a ground to show that the petitioner has demanded and accepted the bribe amount. Hence, learned Senior Counsel prayed for the grant of bail.

5. Per contra, learned Special Counsel for respondent has seriousiy objected the petition by filing objections. He contended that the file pertaining to the defacto complainant has been moved before the BDA and the same was forwarded on 02.11.2021 to Additional Land Acquisition Officer. Thereafter, it was forwarded to Surveyor and then, the file was placed before the Executive Engineer (West), and thereafter on 03.01.2022, the file was forwarded to the petitioner, who is Assistant Engineer and for the last six months, he kept the file

pending, until he received the bribe and trapped. The file was moved after the arrest of the petitioner which clearly reveals that the file was with the petitioner and he has not passed any order for the last six months until the bribe amount was payable by the complainant as demanded by the petitioner. He would further contend that the conversation held between the petitioner and the defacto complainant has been transcribed which clearly reveals the demand made by the petitioner. The learned Counsel for the ACB has also produced a case diary in respect of the Investigation of the case and contended that investigation is being conducted by the ACB and it is still pending and therefore, if the petitioner is granted bail, he may likely tamper the prosecution witnesses and absconding from the case is not ruled out. Therefore, the petitioner is not entitled for the grant of any bail. Hence prayed for dismissal of the petition.

6. Having heard the arguments of learned Counsel for both sides, especially, the trap panchanama as well as

the complaint made by the defacto complainant, perused the records.

7. It is not in dispute that the land measuring 33 guntas in Sy. No.206 situated at Kengeri village belonged to one Suvvalal Jain and Suresh Chand jain has been utilised by the BDA for formation of road without any acquisition proceedings. Therefore, on behalf of the original owners, the GPA holder moved an application before the BDA for an alternate site and continuously requested the BDA to return back the land or to grant an alternative land. Subsequently, the BDA official on 02.11.2021 forwarded the file to the Additional Land Acquisition Officer and the Additional Land Acquisition Officer (ALAO) forwarded the same to the Surveyor for the survey report. Accordingly, the surveyor also submitted a report to the Special Officer and thereafter, the file was moved to Superintendent on 21.12.2021. Subsequently, the file was referred to the Additional Land Acquisition Officer and again the same was forwarded to Executive

Engineer (West). The Executive Engineer referred the file to Assistant Executive Engineer and finally on 3.01.2022, the file was sent to the petitioner, who is Assistant Engineer (A.E.). Admittedly, till trapping of the petitioner by the ACB, the file was lying with the petitioner and the copy of the file was seized by the Investigation Officer during the trap proceedings. The learned Senior Counsel for the petitioner himself has produced the certified copies of the file to the Court which are said to be obtained under the RTI Act. The telephonic conversation was transcribed while lodging the complaint which reveals that the petitioner demanded the bribe and accordingly, on 07.06.2022 at 5.05 p.m. they went near the office of the petitioner and the petitioner was in Maruthi Suzuki Swift car bearing No.KA 17 N 6227. Then the complainant handed over the amount to the petitioner in the car and the ACB trapped the petitioner at 5.40 pm. and seized the tainted notes which were sent by the police. The hand wash of the petitioner turned into pink for having accepted the bribe. The police seized the bribe amount and arrested

the petitioner and prepared a detailed panchanama. Then, he was produced before the Special Court and he was remanded to judicial custody.

8. The investigation is still under progress. The police are yet to receive some more information regarding voice sample report, FSL report etc. which reveals that there is prima facie case made out by the prosecution at this stage to show that the petitioner has demanded and accepted the bribe amount. The enactment of work entrusted was also pending with him as on the date of trap.

9. The learned Senior Counsel has relied on the Hon'ble Supreme Court in the case of ***SATENDER KUMAR ANTIL Vs. CENTRAL BUREAU OF INVESTIGATION AND ANOTHER*** decided in Miscellaneous application No.1849/2021 in Special Leave Petition (Crl.) No.5191/2021, is not applicable to the case on hand since the offence involved in the present case is under Prevention of Corruption Act where the BDA officials

demanded Rs.1.00 Crore for passing favourable order in favour of the complainant and after bargaining, the petitioner has agreed to receive Rs.60.00 lakhs for completion of work and while accepting Rs.5.00 lakhs as advance, he has been trapped by the ACB. The telephonic conversation and the hand wash made by the ACB, all reveal that the petitioner accepted the tainted notes wherein the police smeared phenolphthalein powder. Now a days, in the Government office, the corruption has become rampant and no file will be moved without any bribe. Therefore, I am of the view that the petitioner is not entitled for the grant of bail at this stage.

10. Therefore, the bail petition filed by the petitioner-accused under Section 439 Cr.P.C. is hereby dismissed.

Sd/-
JUDGE

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