

IN THE HIGH COURT OF KARNATAKA
AT BENGALURU

DATED THIS THE 14TH DAY OF JULY 2022

BEFORE

THE HON'BLE MR.JUSTICE K. NATARAJAN

CRIMINAL PETITION NO.1691/2022

BETWEEN:

JEETENDAR SINGH,

..... PETITIONER

(BY SRI GOPAL SINGH, ADVOCATE)

AND:

THE STATE OF KARNATAKA BY
COTTONPET POLICE STATION,
BANGALORE-560 053.

REPRESENTED BY
SPECIAL PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BANGALORE-560001.

.....RESPONDENT

(BY SMT. RASHMI JADHAV, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.149/2021 REGISTERED BY COTTONPET POLICE STATION, BENGALURU (C.C.NO.34293/2021 PENDING ON THE FILE OF LXVIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, (CCH-69), BENGALURU) FOR THE OFFENCE P/U/S 120(B) AND 201 OF IPC AND SECTION 3, 6, 9 OF OFFICIAL SECRETS ACT.

THIS PETITION HAVING BEEN HEARD AND RESERVED ON 13.07.2022 COMING ON FOR PRONOUNCEMENT THROUGH VIDEO CONFERENCING AT DHARWAD BENCH, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

ORDER

This petition filed by the petitioner/accused No.1 under Section 439 of Code of Criminal Procedure, 1973 for granting bail in Crime No.149/2021 registered by the Cottonpet Police for the offence punishable under Sections 120(B) and 201 of Indian Penal Code, 1860 (hereinafter referred to as the 'IPC', for short) and under Sections 3, 6, 9 of the Official Secrets Act, 1923.

2. Heard the arguments of learned counsel for petitioner and learned High Court Government Pleader for respondent.

3. The case of the prosecution is that on the complaint filed by one Police Inspector Shivaprasad of CCB Police on

19.09.2021 alleging that the petitioner said to be projected himself as Army man and in conspiracy with the accused No.2 and accused No.3 who belongs to Pakistan, he has provided the information to the accused No.2 through Whatsapp and other social media by taking photographs of the important places like Naval Base Army area and other important places to Pakistan ISI people who is at Karachi, Pakistan. Therefore, the petitioner said to have committed the offences under the provisions of the Official Secrets Act, 1923. Based upon this information, the police arrested the petitioner on 19.11.2021 and he was remanded to judicial custody. The ACP of Anti Terrorist Cell and CCB wing took up the investigation and filed the charge sheet against the petitioner. The bail petition of this petitioner came to be rejected by the Sessions Judge. Hence, he is before this Court.

4. Learned counsel for the petitioner has contended that the petitioner is innocent of the alleged offences and he has been falsely implicated. He came in contact with one lady through social media and started chatting with her. In order to get her love and affection, the petitioner worn the Indian Military uniform and used

to chat with Pooja who is from Pakistan. Except using uniform and sharing some photographs, there is no incriminating material against the petitioner to show he has sent any information to the Pakistani. He has been in custody more than seven months. The investigation is completed and charge sheet is filed. The punishment for the alleged offences is maximum three years imprisonment. Learned counsel also contended that as per Section 13 of the Official Secrets Act, 1923, the police have no authority to file complaint and there is a bar for taking cognizance. Hence, he prayed for grant of bail.

5. *Per contra*, Smt. Rashmi Jadhav, learned High Court Government Pleader has objected the bail petition and contended that the accused defrauding himself as an Army man, sent official secrets of the India including the Army, Naval and Air force. He has sent various photographs to accused Nos.2 and 3 who are from Pakistan. The police traced the documents and the messages which clearly reveal that he has sent various secret information to Pakistani. There were two cell phones used by the petitioner/accused, out of which, one cell phone is recovered by the

police and another cell phone is already destroyed by the petitioner and they unable to retrieve the information sent by the petitioner. The offence is very serious one. The petitioner not only given information about Army details, base camps, pokran etc. to the lady who is an ISI agent of Pakistan. Therefore, if the petitioner is released on bail, he may commit similar offence or abscond from the case is not ruled out. She also contended that the Army Officer was given instruction to the complainant to file complaint and for official reason, the name of the complainant is not disclosed in the complaint. The Assistant Commissioner of Police, Anti Terrorist Cell, Bengaluru has investigated the matter and filed the charge sheet. Therefore, on the technical ground, the Court cannot grant bail to the petitioner. Hence, she prayed for dismissal of the petition.

6. Having heard the arguments of the learned counsel for petitioner and learned High Court Government Pleader for respondent, perused the records.

7. Admittedly, the petitioner was arrested in November, 2021. The police seized the Army uniform apart from Whatsapp

messages and images showing the petitioner himself pretending as Army man and he has shown the pistol, cartridges and shared with Pooja, accused No.2 who is from Pakistan. The phone used by the petitioner/accused contacting Pooja and was registered in the name of accused No.3 Naqash at Pakistan. The images in the cell phone were recovered by the police which reveal that the petitioner has shared various information of the Military, Air force, Naval base and it has sent to the Pooja, accused No.2, who is a Pakistani. That apart, the IP number of the cell phone reveals that the cell phone is in the name of Naqash, accused No.3, who is also a Pakistani. The police seized almost 78 messages out of which, 30 messages received from Pakistani Intelligence Operative, 24 messages sent to Pakistani, 19 images were sent, 8 images were received and there were 4 video calls done by the petitioner to the said Pooja. The call records were recovered by the police and produced before the Court for verification.

S. On perusal of the records, it is clear that the petitioner was sharing information with Pakistani Intelligence Operating from Bengaluru, which reveals that there *prima facie* material to show

that this petitioner was supplying the information to Pakistani Intelligence Operator. Therefore, it cannot be said that the petitioner was just playing or chatting with Pakistani woman as he has sent various official secrets like Military, Naval base and other important places. Therefore, the possibility of Pakistan may target India by using missile over those places are not ruled out. The information given by the petitioner/accused is dangerous to the safety and security of the nation.

9. That apart, Section 3 of the Official Secrets Act, 1923 prescribes that punishment may be extended to 14 years imprisonment and in other cases to three years. The provisions of Section 3(c) of the Official Secrets Act, 1923 is attracted against this petitioner as he has collected and communicated the information to Pakistani which is likely to affect sovereignty and integrity of India.

10. As per Section 13(3) of the Official Secrets Act, 1923, no Court shall take cognizance of any offence under this Act unless upon complaint made by order of, or under authority from, the

Appropriate Government or some officer empowered by the Appropriate Government in this behalf.

11. Learned H.C.G.P. produced some documents before the Court in a sealed cover which reveal that the name of the complainant is neutralized and not disclosed for the safety reason. As per the instructions issued by the Southern Command, the officer commanding has been sent information to the Police Commissioner, Bengaluru about the name and activities of the accused and based upon the said information, the case has been registered. Therefore, on the technical ground, the petitioner cannot be granted bail in a serious case where he has sent the important information to the intelligence of Pakistan. If the bail is granted to the petitioner, there is every possibility of petitioner absconding from the case and delay the process are not ruled out. Even otherwise, there will be threat to the life of the petitioner, if he comes out of the jail. Therefore, in order to safeguard the interest of the petitioner as well as the safety and security of the nation, it is not a fit case for granting bail to the petitioner/accused.

Accordingly, the petition filed by the accused No.1 is hereby dismissed.

**Sd/-
JUDGE**

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