

CASE NO.:
Appeal (crl.) 1275 of 2007

PETITIONER:
Jaya Simha

RESPONDENT:
State of Karnataka

DATE OF JUDGMENT: 21/09/2007

BENCH:
CJI K. G. Balakrishnan, Tarun Chatterjee & R. V. Raveendran

JUDGMENT:
J U D G M E N T
(Arising out of SLP(Crl.) No.1903/2007)

RAVEENDRAN, J.

Leave granted. The Order dated 27.2.2007 passed by the High Court of Karnataka, rejecting Criminal Petition No.196 of 2007 filed by the Appellant under section 439 of Criminal Procedure Code is under challenge in this appeal.

2. A FIR relating to counterfeit stamps and stamp-papers was registered as Crime No. 545 of 2000 in the Upparpet Police Station, Bangalore, against Abdul Karim Telgi, in respect of offences punishable under sections 255 to 260, 265, 467, 468, 471 to 475, 420 read with section 120B IPC. On the basis of the investigation report of the Stamp Investigation Team (for short 'STAMPIT'), Crime No. 1100/2002 was registered at Madiwala Police Station, Bangalore, on 16.10.2002 for offences punishable under section 120B, 255 to 258, 260 and 420 IPC read with section 63B of Karnataka Stamp Act 1957 against the said A.K. Telgi and others. In pursuance of the directions issued by this Court on 15.3.2004, CBI took up further investigation in the matter.

3. The appellant herein who was working as the Senior Superintendent of Central Prison, Bangalore, and one Nanjappa (working as Asst. Superintendent of Central Prison, Bangalore) were impleaded as accused Nos. 32 and 33 under supplementary charge-sheet filed in Crime No. 1100/2002 alleging that they had committed offences punishable under sections 7, 12, 13(1)(d) read with section 13(2) of Prevention of Corruption Act, 1988 and sections 3, 4 and 25 of Karnataka Control of Organized Crimes Act, 2000 ('KCOC Act' for short). It was alleged that when Abdul Karim Telgi was arrested on 7.11.2001 and lodged in the said prison as an under-trial prisoner, the appellant and the said Nanjappa had conspired with A. K. Telgi and in violation of the prison rules and regulations, permitted and facilitated A. K. Telgi to use mobile phone for his unlawful activities, to run his fake stamp business from the Jail and also to celebrate a party within the jail premises, all for illegal gratification.

4. The appellant was arrested on 9.12.2003. He moved an application for bail before the Special Court (35th Addl. City Civil and Sessions Judge, Parappana, Agrahara, Bangalore) in S.C. 353/2004. The said application was rejected on 28.10.2005. Thereafter, the appellant filed Criminal Petition No. 285 of 2006 before the High Court seeking bail. The High Court rejected the petition by Order dated 25.8.2006, on the ground that the case was already set down for framing of charges and having regard to the gravity of the offence, it was not a fit case to grant bail to him at that stage. The High Court, however, reserved liberty to the appellant to move a similar application in the month of January, 2007 if the trial was not concluded by then. The said order was challenged in SLP (Crl.) No.5333/2006. This Court

disposed of the said petition on 5.1.2007 with an observation that it was not entertaining the petition in view of the liberty reserved by the High Court to move for bail in January, 2007. This Court further observed that if the trial was not so concluded, the appellant may move the High Court again. As the trial was not concluded, the appellant therefore again moved the High Court in CrI. Petition No.196/2007. The High Court dismissed the petition by order dated 27.2.2007 on the ground that the offence was serious and as the trial itself was likely to be over in six to eight months. High Court was also of the view that the appellant, if released on bail, may indulge in tampering with the witnesses. The High Court directed the trial court to complete the trial in 8 months.

5. While challenging the said order, the appellant contends that he was neither a member of the Telgi's crime syndicate nor had he helped A. K. Telgi and his associates in any manner to carry on their illegal activities in Jail. It is further submitted that the High Court did not examine whether the material prima facie disclosed commission of any offence by the appellant punishable under the Prevention of Corruption Act or KCOC Act.

6. Section 25 of KCOC Act provides that any public servant who renders any help or support in any manner in the commission of organized crime as defined under section 2(c), whether before or after the commission of any offence by a member of any organized crime syndicate or abstains from taking lawful measures under the Act or intentionally avoids to carry out the directions of any court or any superior police officers in that respect, shall be punished with imprisonment which may extend to three years and also fine. Section 3(2) of KCOC Act provides that any person who conspires or abets or knowingly facilitates the commission of an organized crime or any act preparatory to organized crime shall be punishable with imprisonment which may extend to life, but not less than five years. Section 4 of KCOC Act provides for a punishment ranging from 3 to 10 years for possessing unaccounted wealth on behalf of a member of organized crime syndicate. For offences punishable under section 7 or 12 of the Prevention of Corruption Act, the punishment is imprisonment for a term not less than six months but extending upto five years.

7. The appellant has already been in Jail for about three years and nine months. Charges were framed only in August, 2006. It is stated that 256 witnesses have been cited. The trial has not been completed. It is stated that it is likely to take a long time for completion. We have already directed Nanjappa against whom similar accusations are made, to be released on bail [vide order dated 17.4.2007 in Nanjappa vs Union of India (Criminal Appeal No.574/2007 arising out of SLP(CrI.) No.6030/2006)]. Having regard to the nature of involvement alleged and the role attributed to the appellant, and the period already spent by the appellant in Jail, we find it a fit case for grant of bail to the appellant.

8. We accordingly allow this appeal, set aside the order of the High Court and direct the Special Judge [35th Addl. City Civil and Sessions Judge], Bangalore, to enlarge the appellant on bail on furnishing security to his satisfaction for a sum of Rupees Fifty Thousand with two solvent sureties for like sums. The appellant shall comply with the conditions enumerated in Section 438(2) Cr.P.C. and also surrender his passport, if any, before the Special Court.