

CASE NO.:
Appeal (crl.) 574 of 2007

PETITIONER:
Nanjappa

RESPONDENT:
Union of India

DATE OF JUDGMENT: 17/04/2007

BENCH:
CJI K G Balakrishnan & R V Raveendran

JUDGMENT:
J U D G M E N T
(Arising out of SLP (Crl.) No.6030/2006)

RAVEENDRAN, J.

Leave granted.

The Order dated 25.8.2006 passed by the High Court of Karnataka rejecting Criminal Petition No. 1021 of 2006 filed by the Appellant under section 439 of Criminal Procedure Code is under challenge.

2. The Circle Inspector of Police, Upparpet Police Station, Bangalore City registered an FIR relating to counterfeit stamps and stamp-papers as Crime No. 545 of 2000 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. Thereafter, the investigation was taken up by Stamp Investigation Team (for short 'STAMPIT') and on the basis of its report, 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 Abdul Karim Telgi and others.

3. After further investigation, P.N. Jayasimha, Senior Superintendent of Central Prison, Bangalore, and the appellant (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 the appellant was working as the Assistant Superintendent of Central Prison, Parrappana Agrahara, Bangalore with effect from 09.8.2001; that Abdul Karim Telgi was arrested on 07.11.2001 and lodged in the said prison as an under-trial prisoner; and that Appellant and Jayasimha conspired with A. K. Telgi and in contravention 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, who was arrested on 9.12.2003, moved an application for bail before the Special (35th Addl. City Civil and Sessions Judge, Bangalore) on 23.3.2005. The said application was rejected on 18.6.2005. Therefore, the appellant filed Criminal Petition No. 1021 of 2006 before the High Court on 28.2.2006 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 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 is

challenged in this appeal by special leave.

5. It is submitted on behalf of the appellant 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 his illegal activities in Jail. It is further submitted that the High Court merely referred to the submissions of both sides briefly and then proceeded to reject the petition for bail by merely observing that it was not a fit case for grant of bail having regard to the gravity of the offence and nature of crime, without recording any finding that 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 more than three years and four months. Charges were framed only in August, 2006 and 256 witnesses have been cited. The trial in the criminal case is likely to take a long time for completion. 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 in 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.