

(2017) 12 KAR CK 0032
In the Karnataka High Court
Case No : 9080 of 2017

B NARAYANA @ BOGAMA NARAYANA? S/O LATE THIMMANNA Vs STATE OF KARNATAKA

Date of Decision : 11-12-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 439](#) - Special powers of High Court or Court of Session regarding bail
[Indian Penal Code, 1860](#), [Sections 379](#)
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Citation : (2017) 12 KAR CK 0032

Hon'ble Judges : Budihal R B

Bench : SINGLE BENCH

Advocate : M Sashidhara, Chetan Desai

Judgement

1. Since these two criminal petitions are in respect of the same crime number, they are taken together and disposed of by this common order, in order to avoid repetition of discussion of law and facts.
2. Criminal Petition No 9080 of 2017 is filed by the accused No 1, said to be the driver of the vehicle involved in the crime, under Section 439 CrPC and Criminal Petition No 9152 of 2017 is filed by the accused No 2, said to be the owner of the vehicle involved in the crime, under Section 438 CrPC, seeking regular and anticipatory bail, respectively, in Crime No 72 of 2017, registered by the respondent-police for the offences punishable under

Sections 379 IPC and Sections 4(1), 4(1A) and 21 of the Mines and Minerals (Regulation and Development) Act, 1957, and Rule 44 of the Karnataka Minor Mineral Concession Rules, 1994.

3. Heard the arguments of the learned counsel for the respondent. I have perused the grounds urged in the bail petitions, FIR, complaint and other materials produced in the case.

4. Brief facts of the prosecution case, as per the complaint averments, are that: On 26-10-2017 at about 5.15 am, the complainant was on patrolling duty. By that time, he saw a tractor coming from Vadrevu road. The complainant stopped the tractor and enquired the driver and found sand in the trailer attached to the said tractor. The transportation of sand was without licence and the driver told that one Srinivasalu is the owner of the vehicle, who is the petitioner in Criminal Petition No 9152 of 2017. The driver was taken into custody and the tractor, trailer along with sand were seized under mahazar. On the basis of said complaint, a case has been registered against the petitioners herein for the aforesaid offences.

5. The allegation in the complaint is that the driver of the vehicle in question was transporting sand without valid licence. But, he denied the allegation of his involvement in the alleged offence. It is also mentioned in the complaint that on enquiry, the driver of the vehicle informed that the accused No 1, the petitioner in Criminal Petition No 9152 of 2017, is the owner of the said vehicle. Therefore, he has also been arraigned as an accused in the case. The accused No 2 also denied the allegations.

6. In so far as the allegations against the second accused are concerned, who is said to be the owner of the said tractor-trailer, whether he has given the vehicle fully knowing that it will be used for any illegal purpose or not is a matter to be ascertained during the course of trial.

7. Both petitioners have contended that they have not committed the alleged offences and that they are ready to abide by any reasonable conditions that may be imposed by the court. The alleged offences are triable by a Magistrate Court. The offences alleged against the petitioners herein are not exclusively punishable either with imprisonment for life or death.

8. Accordingly, both Criminal Petitions are allowed. The petitioners-accused 1 and 2 are entitled to regular and anticipatory bail respectively for the alleged offences, subject to the following conditions:

i. Petitioners shall execute a personal bond for a sum of Rs. 50,000/- [Rupees fifty thousand only] each and shall furnish one surety for the likesum each to the satisfaction of the concerned trial Court/ arresting authority.

ii. Petitioners shall not tamper with any of the prosecution witnesses, directly or indirectly.

iii. Petitioner in Crime No 9080 of 2017 shall appear before the concerned Court regularly.

iv. Petitioner in Crime No 9152 of 2017 has to make himself available before the Investigating Officer for interrogation as and when called for and to cooperate with further investigation.

v. The petitioner in Crime No 9152 of 2017 shall appear before the concerned Court within 30 days from the date of this order and to execute the personal bond and the surety bond.