
(2013) 11 KAR CK 0362
In the Karnataka High Court
Case No : Criminal Petition No. 6184 of 2013

D. Babu and Another

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 08-11-2013

Acts Referred:

Citation : (2014) 1 AKR 149

Hon'ble Judges : H.S. Kempanna, J

Bench : Single Bench

Advocate : C. Pattabi, for the Appellant; B. Visweswaraiah, HCGP, for the Respondent

Final Decision : Allowed

Judgement

H.S. Kempanna, J.—The petitioners who are arrayed as accused. Nos. 21 and 22 in Crime No. 58/2013 of the respondent/police registered for the offences punishable under Sections 114, 353, 380, 395 and 406 of IPC r/w. Secs. 6 and 13 of Karnataka Mining Act or Karnataka Mining Act, 1952 apprehending their arrest at the hands of the said police are before this Court seeking for grant of anticipatory bail. The respondent/police on the basis of the suo motu report filed by one Manikanta V., have registered the above case against unknown 15 persons, one Ramesh Kumar, Sampath, and another Ramesh Kumar K and have taken up investigation.

2. It is alleged among other things in the complaint, on 16.8.2013 at about 11.30 p.m. the accused went to the Security Officer of Mysore Mining Mill situated at Marikuppam coming within the jurisdiction of KGF to take away mud mixed with gold mines by bribing the security Officers. While they were so collecting the mined mud in the mines, the police on being alerted came to the said place and apprehended the persons who had indulged in filling the mud mixed with gold mines and at that juncture one person by name Muttu Kumar who is arrayed as A. 1 escaped from their clutches.

3. Learned counsel for the petitioners submits, the petitioners are painters by avocation and among them second petitioner had contested for Municipal Election and had been defeated. Their names are not found in the first information filed by the complainant. He further submits that their names are also not found in the remand application dated 17.8.2013 and 24.8.2013. It is only in the remand application dated 26.8.2013 the names of the petitioners have been shown as A. 21 and A. 22 in the case. He submits that their names have been shown in the said remand application on the basis of the information given by other accused who had been arrested in the case. The petitioners have no nexus of whatsoever with the alleged taking away of the mud mixed with gold mines and they were not present at the time of occurrence. They are falsely legged in the case by the persons who are ill-disposed towards them. He further submits that one of the CPI of Marikuppam police station was also involved in the case and the said CPI apprehending his arrest had approached this Court for grant of anticipatory bail and his application was allowed by this Court on 17.10.2013. Since the petitioners are involved on the basis of the information given by the co-accused, they be granted anticipatory bail.

4. Per contra, learned High Court Government Pleader vehemently opposed the application filed by the petitioner. The name of the petitioners has figured in the remand application dated 26.8.2013. That has figured on the basis of the information given by the co-accused who had been arrested in the case much prior to that day. Apart from the same, their names do not appear in the remand application dated 17.8.2013 and 24.8.2013. One of the CPI who legged in this very case has been granted anticipatory bail by this Court, Taking all these factors into consideration, I do not find any justification to decline the request of these petitioners. Accordingly, I proceed to pass the following:--

ORDER

Petition is allowed.

The petitioners in the event of their arrest in Crime No. 58/2013 of the respondent/police, they are directed to release the petitioners on bail on each of them executing a personal bond in a sum of Rs. 30,000/- with one surety for the likesum to the satisfaction of the said police, subject to the following conditions:--

1. The petitioners shall appear before the police on or before 15.12.2013 for the purpose of their arrest and release.
2. They shall not tamper with the prosecution witnesses.
3. They shall make themselves available to the Investigating Agency as and when required for the purpose investigation.