

(2013) 01 KAR CK 0164
In the Karnataka High Court
Case No : Criminal P. No. 7703 of 2012

Gangaraju @ Raju

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 16-01-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 307

Citation : (2013) 01 KAR CK 0164

Hon'ble Judges : K.N. Keshavanarayana, J

Bench : Single Bench

Advocate : Chandra Shekara K.A. for Sri. Nagesha K.A, for the Appellant; B. Raja Subramanya Bhat, Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

K.N. Keshavanarayana

1. Apprehending his arrest by the respondent Tavarekere Police in connection with case in Crime No. 424/12 registered for the offence punishable u/s 307 of IPC, the petitioner has presented this petition u/s 438 of Cr. P.C. seeking the relief of anticipatory bail. According to the case of the prosecution, with regard to the question as to where the cremation of dead body of one B.S. Narayana Gowda who died on 19.8.2012 was to be performed, there were some quarrel between this petitioner and others on the one hand and injured Mahendra Kumar and others on the other hand. However, the cremation was performed in the burial ground situated in Chamarajapet, Bangalore. The injured Mahendra Kumar and his wife Smt. Gowramma were not in their house at No. 12, 15th Cross, Sallapuradamma Lay Out, Sunkadakatte, Bangalore as they had gone to attend the burial and other obsequies ceremonies. When Mahendra Kumar returned home in the night of 20.8.2012, he was told about the damage caused to the window panels of the house by this petitioner and others. Therefore, said Mahendra Kumar went near the house of this petitioner and questioned this

petitioner as to why he damaged the window glasses of his house. At that time suddenly this petitioner and two other accused assaulted Mahendra Kumar with knife as a result he sustained bleeding injuries and immediately he was shifted to Hospital. On coming to know about the incident, Smt. Gowramma wife of Mahendra Kumar came to the Hospital and in respect of the said incident she lodged the report at about 1.30 p.m. on 25.8.2012 based on which case came to be registered and investigation was taken up. On coming to know of the registration of the case, the petitioner and other persons arraigned as accused in the case approached the learned Sessions Judge for grant of anticipatory bail. However prayer made by this petitioner came to be rejected while other accused persons were granted anticipatory bail. Therefore, the petitioner is before this Court.

2. The petition is opposed by respondent-State.

3. I have heard both sides and perused the records made available.

4. Admittedly, the petitioner has been arraigned as accused No. 1 in the aforesaid case registered for non-bailable offence. Therefore, the apprehension of the petitioner that he is likely to be arrested is well founded.

5. No doubt, in the complaint lodged by Gowramma wife of Mahendra Kumar about 5 days after the alleged incident, it is alleged that this petitioner stabbed the injured with a knife on the right side of the abdomen. However, the statement of the injured Mahendra Kumar said to have been recorded during investigation prima facie indicates that Gowramma was not an eye-witness to the incident alleged as at that time she was stated to be in her parental home. According to the statement of the injured, accused No. 2-Kiran stabbed the injured on the abdomen with a knife, thereafter one Ramesh by snatching the knife from the hands of Kiran stabbed the injured with the said knife and thereafter this petitioner with the same knife stabbed the injured on the right side of the abdomen. According to the discharge summary issued by Columbia Asia Hospital, injured Mahendra Kumar was brought to the said Hospital with a history of alleged assault around 12.30 a.m. on 21.8.2012 near Yerohalli Out Post Police Station, Magadi Road and the details of the assault was not known. According to the discharge summary when the injured was brought to the Hospital he was conscious and oriented.

6. As noticed supra, the complaint was lodged about 5 days after the alleged incident. Having regard to the facts and circumstances of the case at this stage, there are no reasonable grounds to believe that the alleged act was with an intention to commit murder attracting the ingredients of Section 307 of IPC. As noticed supra, the learned Sessions Judge granted the relief of anticipatory bail to accused Nos. 2 to 4. In this view of the matter, I find no reason to deny the relief of anticipatory bail to this petitioner. Hence, the petition is allowed. The respondent-Tavarekere Police, Bangalore City are directed to release the petitioner on bail in the event of his arrest in connection with the case in Crime

No. 424/12 of the said Police Station, on his executing a personal bond for a sum of Rs. 50,000/- (Fifty thousand only) with one surety for the like-sum to the satisfaction of the arresting Officer and subject to further conditions that:

- i) Upon such arrest and release, the petitioner shall appear before the Investigating Officer and shall cooperate in the investigation of the case;
- ii) The petitioner shall not tamper or terrorise the prosecution witnesses in any manner;
- iii) The petitioner shall not indulge in any acts similar to the one alleged in the case and
- iv) The petitioner shall not leave the jurisdiction of the Court concerned without prior permission thereof.