
(2018) 01 KAR CK 0102
In the Karnataka High Court
Case No : 6883 of 2017

H R Vishwanath

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 23-01-2018

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 438](#), [Section 439](#) - Direction for grant of bail to person apprehending arrest - Special powers of High Court or Court of Session regarding bail

Citation : (2018) 01 KAR CK 0102

Hon'ble Judges : Budihal R.B.

Bench : Single Bench

Advocate : K Nageshwarappa, Ravindra B Deshpande

Final Decision : Dismissed

Judgement

1. This petition is filed by the petitioner/accused No.1 under Section 438 of Cr.P.C. seeking anticipatory bail, to direct the respondent-police to

release the petitioner on bail in the event of his arrest for the offences punishable under Sections 4, 5 of Explosive Substances Act 1908 and

Section 286 r/w Section 34 of IPC registered in respondent police station Crime No.99/2017.

2. Brief facts of the prosecution case are that on 3.8.2017 at about 9.00 a.m. complainant upon credible information that at Arakere village

blasting of rocks is being done near crusher premises belonging to one Vishwanath using illegal explosives and thereby causing endanger to the

human life, came to Javagal police station at about 9.30 a.m. and then to Arakere village at about 10.00 a.m. along with ASI and PC. Thereafter,

complainant secured panchas and visited the spot and noticed that one person was drilling the rock with the help of hand rig with compressor

affixed to the Tractor and another person was filling the explosive substances like powder in the hole made in the rocks and one more person was standing nearby holding a bag. Upon seeing the complainant, those persons tried to run away from the place, but complainant apprehended two persons and the person who was standing along with bag escaped. Upon enquiring those persons they revealed their names as Durgappa and Irayya and the person who ran away as Vishwanath who is the owner of crusher. Complainant found 38 detonators and substances of white crystal in the bag. Irayya informed that they are explosive substances to blast the rocks and Vishwanath had given to them. When complainant asked for the license to possess those substances, they informed that they do not have permission. On the basis of the said complaint, case came to be registered for the above offences.

3. Heard the arguments of the learned counsel appearing for the petitioner/accused No.1 and also the learned High Court Government Pleader appearing for the respondent-State.

4. Learned counsel for the petitioner during the course of his arguments submitted that application submitted by the petitioner seeking permission for blasting is still pending, neither it is rejected nor licence is granted in favour of the petitioner. However, he has submitted that it is a deemed grant of licence as it was kept pending for a longer time. In this regard, he has also produced the lease agreement and other documents. He submitted that false allegations are made against the petitioner. Petitioner is ready to abide by any reasonable conditions to be imposed by the Court. Hence, petitioner may be considered for grant of anticipatory bail.

5. Per contra, learned High Court Government Pleader during the course of his arguments submitted that without obtaining necessary licence for conducting blasting at the said area, blasting operations were done and the materials seized prima facie show the involvement of the petitioner in committing the alleged offences. Petitioner ran away from the said spot. The matter is still under investigation. Hence, petitioner is not entitled for grant of anticipatory bail.

6. I have perused the grounds urged in the bail petition, FIR, complaint and other materials placed on record along with the petition.

7. Looking to the materials placed on record and the allegations made as against

the petitioner, though it is contended that the application of the petitioner seeking licence to conduct blasting operations is pending consideration, but as on the date when the complainant visited the spot and conducted inspection, there was material collected at the spot showing prima facie case against the petitioner. Therefore, it is not a case for grant of anticipatory bail.

8. Hence, petition is hereby rejected. At this stage, learned counsel for the petitioner has submitted that petitioner is prepared to surrender before the concerned Court. In case if he surrenders and makes application seeking his release on bail under Section 439 of Cr.P.C., the concerned Court shall consider the same on priority basis and to dispose of the same on merits, in accordance with law, if possible, on the same day.