

(2014) 02 KAR CK 0210

In the Karnataka High Court

Case No : Criminal Petition Nos. 100275 and 100281/2014

Halappa

APPELLANT

Vs

The State of Karnataka
 Sharanappa Vs The State of
Karnataka

RESPONDENT

Date of Decision : 25-02-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439
Penal Code, 1860 (IPC) — Section 392, 395

Citation : (2014) 02 KAR CK 0210

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

Bench : Single Bench

Advocate : Santosh B. Malagoudar, Advocate in Criminal Petition No. 100275/2014 and Sri S.M. Kalwad, Advocate in Criminal Petition No. 100281/2014, Advocate for the Appellant; V.M. Banakar, Addl. State Public Prosecutor, Advocate for the Respondent

Final Decision : Allowed

Judgement

K.N. Phaneendra, J.—Heard learned counsel for the petitioners and learned Additional State Public Prosecutor for respondent - State. Perused the records.

2. Petitioners have been arrayed as accused Nos. 6 and 5 respectively in connection with Alawandi P.S. Crime No. 1/2014 for the offence punishable u/s 392 of the Indian Penal Code, 1860 (hereinafter referred to as "I.P.C." for brevity).

3. It is the case of prosecution that on 31.12.2013 at about 9.30 p.m. accused Nos. 1 to 4 with the help of some coolie workers have committed theft of iron rods and kept in a shed, near construction project, situated at Kavalur village, Koppal district, which were kept by complainant's son, who has undertaken some construction work. It is alleged that accused Nos. 1 to 4 along with some coolie workers have tied the hands and legs of complainant, who was guarding said iron rods near the shed, and took away the iron rods worth more than Rs.

2,00,000/-. Petitioners are the drivers of the tractors, at the instance of accused Nos. 1 to 4 transported the iron rods from Kavalur to some other places by taking a sum of Rs. 5,000/- each. During the course of investigation it appears that police have arrested accused Nos. 5 and 6 on 02.01.2014 and 04.01.2014 respectively and seized said tractors in connection with this case and also recovered iron rods from accused Nos. 1 to 4.

4. The allegation against these petitioners is only that they were drivers of tractors and have facilitated accused Nos. 1 to 4 in committing theft and transporting iron rods. The offence punishable u/s 392 of I.P.C. is not punishable with death or imprisonment for life. Petitioners are no more required for any further investigation. In this case the witnesses, who have been examined by police have categorically identified accused Nos. 5 and 6 as drivers. Therefore, the question of identification of these accused persons is also not in dispute. Under the above said circumstances, I am of the opinion that the petitioners have made out a ground for grant of bail u/s 439 of Code of Criminal Procedure, 1973. Hence, I pass the following:

ORDER

[*Petitions filed u/s 439 of Cr.P.C. are hereby allowed. Consequently, the petitioners shall be released on bail, subject to the following conditions:]

Petitions filed u/s 439 of Cr.P.C. are hereby allowed. Consequently, the Petitioners shall be released on bail in connection with Crime No. 1/2014 on the file of the Alawandi Police for the offence u/s 395 of I.P.C. subject to following conditions:

i) Petitioners shall execute a personal bond for a sum of Rs. 50,000/- each with one solvent surety for a like sum to the satisfaction of jurisdictional committal Magistrate.

*Amended vide court order dtd.

03.03.2014

Sd/-

Hon"ble KNPJ

ii) Petitioners shall not indulge themselves in hampering the investigation or tampering the prosecution witnesses.

iii) Petitioners shall mark their attendance once in a week on every Sunday between 10 a.m. and 5 p.m. before the Investigating Officer, till filing of the charge sheet or for a period of two months, whichever is earlier.

iv) Petitioners shall attend the Court on every date of hearing without fail, unless prevented by any genuine cause.

v) Petitioners shall not leave the jurisdiction of Koppal District without prior permission, till the case registered against them is disposed of.