

(2017) 03 KAR CK 0194
In the Karnataka High Court
Case No : 200367 of 2017

Ishwar S/o Nagappa Bannur

APPELLANT

Vs

The State of Karnataka Through the PSI., Adarsh Nagar P.S.,
R/by Addl. State Public Prosecutor

RESPONDENT

Date of Decision : 10-03-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 439](#) - Special powers of High Court or Court of Session regarding bail
[Indian Penal Code, 1860](#), [Section 34](#), [Sec 1767-364](#)

Citation : (2017) 03 KAR CK 0194

Hon'ble Judges : B. A. Patil

Bench : SINGLE BENCH

Advocate : R.S.Lagali, Sanganagouda V. Biradar, Prakash Yeli

Final Decision : Allowed

Judgement

1. This petition is filed by the petitioner/accused No.3 under Section 439 of Cr.P.C., seeking regular bail in Crime No.126/2016 of Adarsh Nagar Police Station, Vijayapur, registered for the offences punishable under Section 364(A) r/w 34 of IPC.

2. Brief facts leading to filing of the complaint are that, in the morning hours of 09.12.2016 the complainant's two sons left the house in order to catch their school bus in front of their house and were waiting for the same. At that time, the complainant was watering the plants in his garden, whereas his wife was busy for attending to the kitchen work. It is further alleged that after some time, he heard screaming voice of his elder son, when he came out of the compound there he saw two persons carrying away his younger son Sarthak on a black motorcycle. Even though the complainant chased them, they did not stop the said motorcycle and the said motorcycle was not having any registration number. It is further alleged that the complainant searched for his son, later at about 1:25 p.m. he received a phone call from mobile bearing No.89748905211, at

that time they demanded Rs.15.00 lakhs for safe return of his son. It is further alleged that the person who has called over the phone also told that he will be calling back after two hours. But later on when the complainant tried to contact to the said mobile phone number, the said phone was not in a reachable condition, therefore, the complainant approached the police. On 10.12.2016 during the course of investigation, police came to know about accused involved in the said crime and also came to know that they are near Ibrahimpur Railway Gate, immediately they went there and apprehended two persons by name Abdul S/o Babu Ammanagi and another accused by name Manjunath S/o Shrimant Loni. On they being brought to the police station and interrogated, they admitted their involvement in the said crime. Subsequently, other accused persons were also arrested and now they are behind the bars.

3. I have heard the learned counsel for the petitioner and the learned Additional State Public Prosecutor appearing for respondent-State.

4. The main grounds urged by the learned counsel for the petitioner are that petitioner is innocent, he has not committed any offence alleged against him. It is also contended that the alleged offences are not punishable with death or imprisonment for life. It is also contended that charge sheet has already been filed and the accused-petitioner is no more required for the purpose of investigation or interrogation. It is also contended that accused Nos.1 and 4 have already been released on bail by this Court, even on the ground of parity, accused-petitioner is also entitled to be enlarged on bail. It is also contended that there is allegation in the complaint that the younger son of the complainant has been kidnapped for a ransom, but without there being any payment of the said ransom, the son of the complainant has been released is also not forthcoming in the charge sheet material. It is also contended that if the petitioner is released on bail, he is ready to abide by the conditions to be imposed by this Court and ready to offer sureties. On these grounds, he prays for allowing the petition.

5. On the contrary, learned Additional State Public Prosecutor appearing for the respondent-State vehemently contended that accused persons have kidnapped the younger son of the complainant for a ransom of Rs.15.00 lakhs and thereafter they have also called over phone to the complainant and have demanded for the said ransom. He has further contended that charge sheet has already been filed and there is prima facie ample material to show that the accused persons have involved in the alleged crime. He has further contended that Investigating Officer has recorded the voluntary statements of the accused persons, therein they have admitted that they have involved in the alleged crime. He has further contended that at this juncture, if the petitioner is released on bail, there is likelihood of he being absconded and he may not be available for trial. On these grounds, he prays for dismissal of the petition.

6. I have gone through the copy of the FIR, complaint and other material produced along with the petition. On going through the contents of the

complaint, it discloses that the accused persons have kidnapped the younger son of the complainant for a ransom of Rs.15.00 lakhs, but the records did not disclose the fact that even though the complainant for the first time came to know that his son has been kidnapped immediately he has not filed any complaint to the concerned police, he makes search, thereafter he went to the police station and filed a complaint. The said act appears to be not natural and probable.

7. Be that as it may, the records do not disclose the fact that when actually the victim was got rescued by the police or any other persons, what happened with reference to the ransom amount which actually they have demanded from the complainant, all these aspects are the matters to be adjudicated at the time of trial. When accused Nos.1 and 4 have been released on bail by this Court, therefore, on the ground of parity, accused-petitioner is also entitled to be released on bail. The alleged offences are not punishable with death or imprisonment for life, charge sheet has already been filed and there is no need of custodial continuation of the accused. When the accused-petitioner is ready to abide by the conditions to be imposed by this Court and ready to offer sureties, I feel if the accused-petitioner is released on bail, by imposing some stringent conditions, it would meet the ends of justice.

8. For the aforementioned reasons, the petition is allowed and petitioner/accused No.3 is ordered to be released on bail, subject to the following conditions:

- i) The petitioner shall execute a personal bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) with two solvent sureties for the likesum to the satisfaction of the jurisdictional Court;
- ii) The petitioner shall not indulge in hampering the investigation or tampering the prosecution witnesses;
- iii) The petitioner shall make himself available to the Investigating Officer as and when required;
- iv) The petitioner shall appear before the concerned Court regularly.