

(2016) 08 KAR CK 0036

In the Karnataka High Court

Case No : Criminal Petition No. 4916 of 2016 connected with Criminal Petition No. 4917 of 2016

K.V. Vasudeva

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 04-08-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438, Section 438
Penal Code, 1860 (IPC) — Section 143, Section 147, Section 149, Section 309, Section 323, Section 504, Section 506

Citation : (2017) 1 KantLJ 638

Hon'ble Judges : B. Sreenivase Gowda, J.

Bench : Single Bench

Advocate : Sri Nitin R, Advocate, for the Petitioner in both Criminal Petition; Sri K. Nageshwarappa, High Court Government Pleader, for the Respondent in both Criminal Petition

Final Decision : Disposed Off

Judgement

B. Sreenivase Gowda, J.—Crl. P. No. 4916 of 2016 is filed under Section 439 of Criminal Procedure Code, 1973 by one Vasudeva who is arrayed as accused no.1 and Crl. P. No. 4917 of 2016 is filed under Section 438 of Cr. P.C. by one Muniraju arrayed as accused no. 2, seeking bail and anticipatory bail respectively in connection with Crime No. 88 of 2016 registered by the respondent-Police for the offences punishable under Sections 143, 147, 323, 504, 506, 309 and 149 of Indian Penal Code, 1860.

2. Heard the learned Counsel for the parties and perused the FIR complaint and order passed by the Sessions Judge, Chickballapur, rejecting the bail petitions filed by the petitioners under Sections 439 and 438 of Cr. P.C. seeking regular bail and anticipatory bail respectively.

3. As per the allegations made in the complaint lodged by the complainant-Linga Reddy, his grandfather Thamme Gowda had two sons namely Ashwatappa and

Muninarayanappa. Second son Muninarayanappa died in the year 1972, as issueless leaving behind his wife Anjinamma. The said Anjinamma filed a suit before the Civil Court, Chikkaballapur, claiming the share of her husband in the joint family properties and that she appears to have been given 1/3rd of the share of her husband in the joint family property of Thamm Gowda. The complainant questioning the allotment of 1/3rd share in favour of the said Anjinamma has instituted a suit in O.S. No. 68 of 2014 before the Civil Court, Chikkaballapura. As per the complaint allegations, there was also dispute between the complainant and his deceased brother Devraj and there has been long pending civil dispute between the complainant and his family persons on the one side and accused no. 2 - Muniraju and others on the other side. Initially, there were seven accused persons as per the FIR and later ten more persons are added and at present, there are large number of accused in the case. Out of seventeen accused persons, fifteen of them have been granted either anticipatory bail or regular bail.

4. accused nos.1 and 7 namely K.V. Vasudeva-petitioner in Cri. P. No. 4916 of 2016 and K.V. Devaraj had filed Cri. Misc. No. 420 of 2016 under Section 439 of Cr. P.C. before the Sessions Judge seeking to enlarge them on bail whereas the accused no.2-Sri Muniraju - the petitioner in Cri. P. No. 4917 of 2016 and seven other accused persons had filed Cri. Misc. No. 421 of 2016 before the Sessions Court under Section 438 of Cr. P.C. seeking to grant them anticipatory bail. The Sessions Court by common order dated 1-7-2016 allowed Cri. Misc. No. 420 of 2016 in part and granted the bail to accused no.7-Sri K.V. Devaraju, who is the brother of accused no.1-Sri K.V. Vasudev and rejected the bail application in respect of accused no.1-K.V. Vasudev - the petitioner in Cri. P. No. 4916 of 2016. Similarly, it has allowed Cri. Misc. No. 421 of 2016 in part and granted bail to other petitioners in the said application and rejected the bail application in respect of accused no.2-Muniraju who is the petitioner in Cri. P. No. 4917 of 2016.

5. Perusal of the order passed by the Sessions Court would show it has rejected the bail to the petitioners in these petitions solely on the ground that they are involved in NCR No. 122 of 2015, in Crime Nos. 411 of 2015 and 67 of 2016 and they are involved in criminal activities and therefore they are not entitled to be granted bail. When the above petitions were listed before this Court on 1-8-2016, the petitioners were asked to produce the proceedings in NCR No. 122 of 2015, Crime Nos. 411 of 2015 and 67 of 2016.

6. Perusal of NCR No. 122 of 2015 would show it is filed by accused no.1-K. Muniraju-the petitioner in Cri. P. No. 4917 of 2016 against the complainant-Sri Linga Reddy whose name is wrongly typed as Sri Linga Shetty requesting the respondents-police to give him protection to cultivate the land.

7. Perusal of FIR in Crime No. 411 of 2015 would show this is a suo motu proceedings initiated by the respondent-police on 28-11-2015 whereby the respondents-police advised accused no.1-Sri K.V. Vasudev, accused no.2-Sri Muniraju and the complainant-Sri Linga Reddy to maintain peace.

8. Perusal of FIR in Crime No. 67 of 2016 would disclose it is also suo motu proceedings initiated by the respondent-police on 16-5-2016 wherein also the police advised accused no.1-K.V. Vasudev, accused no.2-Sri Muniraju and the complainant-Sri Linga Reddy to maintain peace.

9. Perusal of the FIR in Crime No. 88 of 2016 and NCR No. 122 of 2015, FIR in Crime No. 411 of 2015 and FIR in Crime No. 67 of 2016 would disclose there has been long pending civil dispute between the complainant and the accused persons. As already stated, the bail applications filed by these petitioners for grant of bail and anticipatory bail have been rejected solely on the ground that there are proceedings against them. If the learned Sessions Judge had carefully perused, the proceedings of NCR No. 122 of 2015 in Crime Nos. 411 of 2015 and 67 of 2016, he would have granted the bail to the petitioners also.

10. As per the post-mortem report, cause of death is on account of consumption of poison whereas the learned Counsel for the petitioners submits that he was suffering from HIV and on account of the same, he must have consumed poison and succumbed to death. Be that as it may, the material so far collected by the prosecution would not prima facie disclose the direct involvement of the petitioners in the commission of the offence.

11. It may also be noted that about 15 accused persons have already been granted either bail or anticipatory bail by the Sessions Court itself. If it is so, do not find any reasons, why these petitioners should not be granted bail. The apprehension of the prosecution that if the petitioners are released on bail, they would interfere with the investigation of the crime and they would tamper the prosecution witnesses can be safeguarded by imposing stringent conditions while granting bail to the petitioners.

ORDER

In Cri. P. No. 4916 of 2016

Petition is allowed. The petitioner-accused no.1 Sri K.V. Vasudev is granted regular bail in connection with Crime No. 88 of 2016 registered for the offences punishable under Sections 143, 147, 323, 504, 506, 354, 447, 114 and 306 read with Section 149 of IPC, subject to the following conditions:

(i) The petitioner shall execute a personal bond for a sum of Rs. 1,00,000/- (One Lakh Rupees only) with one solvent surety for the likesum to the satisfaction of the concerned Court; Both the accused and surety shall furnish address and identity proof such as Ration Card, Voter Identity Card, driving licence etc.

(ii) He shall not hamper the investigation and tamper the prosecution witnesses in any manner, on the other hand, he shall extend the full co-operation to the respondent-Investigation Officer for investigation of the crime.

(iii) He shall appear before the concerned Court on all the future hearing dates unless he is prevented by any genuine cause.

(iv) He shall not leave the jurisdiction of the concerned Court without prior permission of the Court until the case registered against him is disposed of.

(v) He shall mark his attendance with the respondent-police on every Sunday between 10.00 a.m. and 1.00 p.m. till filing of final report.

(vi) In event of disobeying any of the above conditions, the prosecution is at liberty to move the concerned Court for cancellation of the bail.

ORDER

In Cri. P. No. 4917 of 2016

Petition is allowed. The petitioner-accused no.2-Sri Muniraju is granted anticipatory bail by directing the respondent-police to release him on bail in the event of his arrest in connection with Crime No. 88 of 2016 registered for the offences punishable under Sections 143,147, 323,504, 506, 354,447,114 and 306 read with Section 149 of IPC, subject to the following conditions:

(i) The petitioner shall execute a personal bond for a sum of Rs. 1,00,000/- (One Lakh Rupees only) with one solvent surety for the likesum to the satisfaction of the Investigation Officer; Both the accused and surety shall furnish proof of identity such as voter identity card, driving licence, ration card etc.

(ii) He shall not hamper the investigation and tamper the prosecution witnesses in any manner, on the other hand, he shall extend the full co-operation to the respondent-Investigation Officer for investigation of the crime.

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