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(2024) 05 KAR CK 0040

In the Karnataka High Court

Case No : Criminal Petition No. 4340 Of 2024

Mahammed Junaid — APPELLANT

Vs

State Of Karnataka By Surathkal Police Station, Represented By Spp High Court Building, Bengaluru-560001 — RESPONDENT

Date of Decision : 29-05-2024

Acts Referred:
Indian Penal Code, 1860 — Section 120B, 195(a), 307, 504, 507
Arms Act, 1959 — Section 4, 25(1B)(b)
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2024) 05 KAR CK 0040

Hon'ble Judges : H.P. Sandesh, J

Bench : Single Bench

Advocate : Sachin B.S., K. Nageshwarappa

Final Decision : Allowed

Judgement

H.P. Sandesh, J

1. Heard the learned counsel for the petitioner and learned HCGP for the respondent-State.

2. The factual matrix of the case of the prosecution is that the accused Nos.2 to 7 are conspired with accused No.1 with an intension to take away the life of one Deepak Rao. There was a pre ill-will and accused No.1 is having the same with the victim and they made the preparation by concealing deadly weapon talwar. It is alleged that the accused No.1 has created a group called Lokandwala and had conversation with the accused No.2 i.e., the petitioner herein by abusing CW1, CW4 and other witnesses and also gave life threat to them. Further he texted through the said whatsapp group about the elimination of the witnesses of Deepak Rao. The accused No.6 had kept in his pant pocket, a sketch of the route leading to the house of CW1. It is therefore, alleged that in order to prevent the witnesses of Deepak Road murder case from revealing the truth, accused No.1 with other accused Nos.2 to 7 had planned to commit the murder of the said

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witnesses. Hence, the case has been registered against the accused persons and invoked the offences punishable under Section 504, 507, 195(a), 307 of IPC and Section 4 R/w Section 25(1B)(b) of Indian Arms Act and investigated the matter and filed the charge sheet.

3. The counsel for petitioner submits that all the accused persons including accused No.1 have been enlarged on bail and the Trial Court dismissed the bail petition filed by this petitioner. There is no any incident of attempting to commit the murder and only conspiracy is araised against the this petitioner with accused No.1. Hence, this petitioner may be enlarged on bail and this petitioner is ready to obey the conditions imposed by this Court.

4. Per Contra, the counsel appearing for the respondent/State submits that specific allegation is made against this petitioner as well as other accused persons that all of them have conspired with accused No.1 to commit the murder of the witnesses. Hence, the offence under Section 195(a) of IPC is also invoked against this petitioner other than the offence under Section 307 of IPC R/w Section 25(1B)(b) of Indian Arms Act.

5. Having heard the petitioner's counsel and also the counsel appearing for the respondent/State, the main allegation against this petitioner is that he also conspired with other accused Nos.3 to 7 with accused No.1 and other accused persons have been already enlarged on bail. When the incident has not taken place in attempting to take away the life and only based on the conspiracy, the petitioner cannot be kept in custody and conspiracy has to be proved during the course of the trial. Hence, it is a fit case to exercise the powers under Section 439 of Cr.P.C., subject to imposing certain conditions to protect and safeguard the interest of the prosecution. Hence, I pass the following:-

ORDER

The Petition is allowed. Consequently, the petitioner/accused shall be released on bail in Crime No.143/2021 (C.C.No.416/2023) of Surathkal Police Station, North Sub-division, Mangaluru City registered for the offence punishable under Section 504, 507, 195A, 307, 120B of IPC, and Section 4 R/w Section 25(1B)(b) of Indian Arms Act subject to the following conditions:

(i) The petitioner shall execute personal bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for the like-sum to the satisfaction of the jurisdictional Court.

(ii) The petitioner shall not indulge in tampering the prosecution witnesses.

(iii) The petitioner shall appear before the jurisdictional Court on all the future hearing dates, unless exempted by the Court for any genuine cause.

(iv) The petitioner shall not leave the jurisdiction of the Trial Court without prior permission of the Court, till the case registered against him is disposed of.

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