

(2018) 02 KAR CK 0045
In the Karnataka High Court
Case No : 200074 of 2018

Parmesh @ Parmeshwar & Ors.

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 14-02-2018

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 438](#) - Direction for grant of bail to person apprehending arrest
[Indian Penal Code, 1860](#), [Section 34](#), [Section 3](#)

Citation : (2018) 02 KAR CK 0045

Hon'ble Judges : G.Narendar

Bench : Single Bench

Advocate : Rajesh Doddamani, P.S. Patil

Final Decision : Allowed

Judgement

1. Heard the learned counsel for the petitioners and the learned High Court Government Pleader, appearing for the respondent-State.

2. The petitioners are before this Court under the provisions of Section 438 of Cr.P.C., praying that they be enlarged on bail in the event of their

arrest in Crime No.269/2017, registered with the Dhannur Police Station for the offences punishable under Sections 307, 324, 341, 504, 506 R/w

Section 34 of IPC.

3. The case of the petitioner is that, the complaint came to be lodged on 12.11.2017 by one Smt. Vijayalaxmi W/o Dilipkumar Chalkpure, wherein

she has stated that on 06.11.2017 at about 5.30 p.m., when her husband was near Basaveshwar Statue, the accused persons way laid her

husband and abused him with regard to lodging of the complaint by him as against the petitioners and also assaulted him with a stick and threatened

that if he does not withdraw the same, they would again beat him. That thereafter, her husband went to their agricultural land and consumed

poison. That immediately, he was taken to the Government Hospital, Bidar and thereafter for higher treatment, he was shifted to Private Hospital

i.e., Gadge Nursing Home at Bidar. It is submitted that the complaint was lodged after 6 days of the incident. Even as per the complaint, the

incident is said to have occurred on 06.11.2017. Whereas, the complaint was lodged on 12.11.2017 and the respondent-police had registered the

crime for the offence punishable under Sections 324, 341, 504, 506 R/w Section 34 of IPC.

4. It is contended by the learned counsel for the petitioners that, the complainant with an intention of seeking revenge against the petitioners, the

respondent-police in collusion with the father of said Dilipkumar are said to have got recorded his further statement, wherein the said father has

made an allegation totally contrary to the case of the defacto complainant and has proceeded to allege that the poison was forcibly poured down

into the throat of the victim. He would further contend that the act of the police in recording the further statement and trying to implicate the

petitioners for the offence punishable under Section 307 of IPC is unpardonable and he would also submit that the petitioners are innocent and that

the cases are concocted. He would draw the attention of the Court to the discharge card issued by the private hospital, which is recorded on

earlier point of time i.e., on 06.11.2017, wherein it is stated that the victim had consumed the poison and nowhere is any statement recorded to

demonstrate that the petitioners tried to force the deceased to consume the poison. Hence, he would pray that the petition be allowed and the

petitioners be enlarged on bail.

5. Per contra, learned High Court Government Pleader would submit that the father is also an eyewitness and his further statement has been

recorded on 06.12.2017 i.e., nearly a month after the incident. The very conduct of the father itself raises doubt with regard to the authenticity of

the contents of the further statement.

6. It is submitted by the learned counsel for the petitioners that this Court in Crl.P.No.200005/2018 was pleased to release the petitioners therein

i.e., Accused Nos.1 and 3 on bail and that present petitioners who are arrayed

herein are Accused Nos. 2 and 4 and on the ground of parity they are also entitled to be enlarged on bail. It is submitted that the petitioners are innocent of the alleged offences alleged against them and that they hail from respectable family and bear no criminal antecedents nor they had involve in any commission of heinous crime.

7. On a query from this Court, learned High Court Government Pleader would fairly submit that the petitioners have no criminal antecedents nor

they are known anti social elements. In view of the order passed by this Court in Crl.P.No.200005/2018, this Court is of the opinion that the

petitioners herein are also entitled for the relief as sought for.

8. Accordingly, the petition is allowed and the respondent-Police are directed to enlarge the petitioners on bail in Crime No.269/2017, registered

for the offences punishable under Sections 307, 324, 341, 504, 506 R/w Section 34 of IPC, subject to the following conditions:

i. The petitioners shall execute a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one surety each for a likesum

to the satisfaction of the jurisdictional Court;

ii. The petitioners shall appear before the Investigation Officer on every Monday at 9:00 a.m. till filing of the charge sheet.

iii. The petitioners shall not attempt to influence the prosecution or the witnesses or tamper with the evidence;

iv. The petitioners shall not leave the jurisdiction of this Court without the prior permission of the trial Court;

v. The petitioners shall attend the trial Court regularly on all dates of hearing without fail. Petition is ordered accordingly.

The Trial Court shall not be influenced by the observations made by this Court in the disposal of the petition. The observations are made only for

the purpose of disposal of this petition and the trial Court shall proceed with the trial without being influenced by the observations made by this

Court.