
(2014) 11 KAR CK 0132
In the Karnataka High Court
Case No : Criminal Petition No. 6988/2014

Partha	Vs	APPELLANT
State of Karnataka		RESPONDENT

Date of Decision : 26-11-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439
Penal Code, 1860 (IPC) — Section 120B, 143, 147, 148, 149

Citation : (2014) 11 KAR CK 0132

Hon'ble Judges : A.V. Chandrashekara, J

Bench : Single Bench

Advocate : Prakash M.H., Advocate for the Appellant; B. Visveswaraiah, HCGP, Advocate for the Respondent

Judgement

A.V. Chandrashekara, J.—Petitioner is accused No. 3 in Crime No. 46/2014 on the file of Kanakapura Rural Police Station. Charge Sheet has been filed against all the accused in the said case for the offences punishable under Sections 143, 147, 148, 302, 120-B of IPC r/w. Section 149 of IPC. He has been in judicial custody since eight months; hence, regular bail application is filed under Section 439 Cr.P.C.

2. Learned HCGP has vehemently opposed the bail application on the ground that the presence of this petitioner and his involvement of murdering K.P. Chandra on the morning of 5.3.2014 near Chatragate petrol bunk is forthcoming. He has argued that the name of the petitioner has been referred to by the main witness - Muniraju, the first informant, who has filed the complaint, on the very next day of registration of the case. Therefore, it cannot be doubted. It is further argued that K.P. Chandra was brutally murdered by this accused along with other accused by dashing against his vehicle by using the car in which they were travelling.

3. Heard the learned Counsel for the petitioner at length and perused the records.

4. First information was lodged by one Muniraju, resident of Kallahalli village, Kanakapura Taluk, at about 10.15 am before the respondent-police station, on the basis of which a case came to be registered in Crime No. 46/2014. He is stated to be an eyewitness to the incident in question. As per the first informant, K.P. Chandra was proceeding on his motor bicycle on pipeline road and he reached a place near chatragate Petrol bunk at about 8.15 a.m. on 5.3.2014. At that time, a Tata Indica Car came behind the said motor bicycle and dashed against the motor bicycle driven by K.P. Chandra, as a result of which he fell down along with his motor bicycle. Suddenly 4 members came out of the Car holding sharp longs and assaulted on the limbs and head of K.P. Chandra recklessly by which time, K.P. Chandra's brother K.P. Prakash also came there. The first informant could recognize accused Umesh and Raghu S/o. Shankar as the 2 assailants amongst the 4 assailants and that he would recognize 2 persons at later point of time. According to him, the murder is the outcome of the enmity they had against K.P. Chandra relating to the cess collection in connection with the jatra.

5. The incident of murder is stated to have taken place on the instigation of Lokesh, Rock Raju and Sumantha.

6. Name of these petitioners are not to be found in the first information lodged at about 10.15 a.m. on 5.3.2014. Name of the petitioner figured only on the next date when the further statement of first informant-Muniraju was recorded on 6.3.2014 and when statement of K.P. Prakash was recorded on the next day. As rightly pointed out by the learned Counsel for the petitioner, it is not as though this petitioner not known either to the first informant or another witness, who had seen the first information along with first informant.

7. This petitioner is also a resident of Kallahalli Village, in which, the first informant and K.P. Prakash are residing. Mr. Chandra, whose name also finds in the first information as fourth accused has already been given up in the charge sheet filed of late. Original accused Nos. 5, 6 and 7 whose name found a place in the first information report i.e., Lokesh, Rock Raju and Sumantha have not been sent up for trial and in their place of one Nanjundi, Mahesh Babu and KSRTC., Kumar have been shown as accused Nos. 5, 6 & 7. According to the prosecution, these accused Nos. 5 to 7 instigated the assailants to murder K.P. Chandra.

8. It is a very moot point as whether this petitioner had actually participated in the murder of K.P. Chandra. In the light of his name being not found in the first information and in the light of original accused Nos. 5 to 7 being not sent up for trial and other person being shown as accused Nos. 5 to 7, petitioner is to be released on bail. Whatever observation is made by this Court is for the limited purpose of considering the bail application and shall not influence the learned Judge while dealing with the case on merits. Suffice it to state that investigation has been completed and charge sheet has been filed. The petitioner has undertaken to obey any condition which may be imposed on him. Thus, the apprehension of the Government Pleader could be suitably met with by imposing

conditions on the petitioner.

9. In this view of the matter, petition is allowed and bail is granted to the petitioner, subject to the following conditions:--

"(i) Petitioner shall be released on bail on his executing personal bond for a sum of Rs. 1,00,000/- with two sureties, for the like sum to the satisfaction of the concerned Court.

(ii) Petitioner shall not tamper or attempt to tamper any of the prosecution witnesses.

(iii) Petitioner shall not hold out threats to the prosecution witnesses in any manner.

(iv) Petitioner shall not involve himself in any criminal activities.

(v) Petitioner shall attend the respondent-Police Station once in a week on every Sunday between 9 a.m. and 5 p.m. without fail for a period of one year or till the material witnesses are examined in the trial Court, whichever is earlier."

It is also made clear that the violation of any one of the conditions imposed on him would be viewed seriously and this would enable the prosecution to seek cancellation of the bail.