

(2024) 02 KAR CK 0037

In the Karnataka High Court

Case No : Criminal Petition No. 1309 Of 2024 (439-)

Prakash Singh

APPELLANT

Vs

State Of Karnataka Through Sho Malur Police Station, Rep.
By Its State Public Prosecutor, High Court Building,
Bengaluru, Karnataka ? 560001 & Others

RESPONDENT

Date of Decision : 15-02-2024

Acts Referred:

Indian Penal Code, 1860 — Section 34, 302, 323, 324, 504
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2024) 02 KAR CK 0037

Hon'ble Judges : S Vishwajith Shetty, J

Bench : Single Bench

Advocate : Swadesh Deepak, Anita Girish

Final Decision : Allowed

Judgement

S Vishwajith Shetty, J

1. Accused No.3 in Crime No.273/2023 registered by Malur Police Station, Kolar for the offence punishable under Sections 323, 504, 302 read with Section 34 of Indian Penal Code (for short, 'the IPC') is before this Court under Section 439 of the Criminal Procedure Code (for short, 'the Cr.P.C.').

2. Heard the learned counsel for the parties.

3. On the basis of the complaint dated 10.07.2023 lodged by Sri. Subhod Kumar, S/o Sri. Devendar Singh, FIR in Crime No.273/2023 was registered by Malur Police Station, Kolar, against Sri. Charan Singh and two others initially for the offence punishable under Sections 34, 504, 302, 323 and 324 of IPC. In the complaint, it is averred that the complainant is a lorry cleaner, who hails from Uttar Pradesh. On 08.07.2023, his lorry was parked for the purpose of loading near Honda Factory in Malur Taluk. Similar other lorries were also parked near the lorry in which the complainant was working as Cleaner. On 09.07.2023 at

about 09.00 p.m., complainant heard somebody fighting. He saw Charan Singh, Prakash Singh and Ajay Kumar fighting with each other and at that time, complainant, Kapthan Singh and Ramgopal tried to interfere. Charan Singh allegedly assaulted Ramgopal with a jack rod on his head and Ajay Kumar and Prakash Singh assaulted the complainant with a wooden piece and also with their hands. Ramgopal, who suffered grievous injury was shifted to Hospital but he was declared brought dead. It is in this background, complainant had approached the police and lodged a complaint, which had resulted in registering FIR in Crime No.273/2023. During the course of investigation, the petitioner who is arraigned as accused No.3 in the chargesheet was arrested on 10.07.2023. Investigation in the case is complete and charge sheet has been filed. His bail application filed before the II Addl. District and Sessions Judge, Kolar in Crl.Misc.No.652/2023 was rejected on 17.08.2023. Therefore, he is before this Court.

4. Learned counsel for the petitioner submits that the allegation against the accused Nos.2 and 3 are identical. Accused Nos.2 has been granted bail by this Court in Criminal Petition No.11237/2023 and accused No.1 has been granted bail by this Court in Criminal Petition No.996/2024. Accordingly, he prays to allow the petition.

5. Per contra, learned High Court Government Pleader who has opposed the bail application does not dispute the submission made by the learned counsel for petitioner.

6. Perusal of the material available on record, would go to show that the allegation against the petitioner and accused No.2 are similar in nature. Allegation of assault on deceased-Ramgopal with a jack rod on his head is only as against the accused No.1. Accused No.2 has been granted regular bail by this Court in Criminal Petition No.11237/2023 disposed off on 27.11.2023. This Court has also granted regular bail to the accused No.1 in Criminal petition No.996/2024. Under these circumstances, I am of the opinion that on the ground of parity, petitioner is entitled for the relief as sought by him.

Accordingly the following:

ORDER

Petition is allowed.

The petitioner/accused No.3 is directed to be enlarged on bail in Crime No.273/2023 registered by Malur Police Station, Kolar for the offence punishable under Sections 323, 504, 302 read with Section 34 of Indian Penal code, subject to the following conditions:

i. The petitioner/accused No.3 shall execute personal bond for a sum of Rs.1,00,000/- with two sureties for the likesum, to the satisfaction of the jurisdictional Court.

- ii. The petitioner/accused No.3 shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons.
- iii. The petitioner/accused No.3 shall not directly or indirectly threaten or tamper with the prosecution witnesses.
- iv. The petitioner/accused No.3 shall not involve in similar offences in future.
- v. The petitioner/accused No.3 shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against him is disposed off.