

(2011) 03 KAR CK 0060
In the Karnataka High Court
Case No : Criminal Petition No. 373 of 2011

Praveen D'souza @ Praveena

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 03-03-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 395

Citation : (2011) 03 KAR CK 0060

Hon'ble Judges : A.S. Pachhapure, J

Bench : Single Bench

Advocate : K.B.K. Swamy, for the Appellant; G.M. Srinivasa Reddy, HCGP, for the Respondent

Final Decision : Allowed

Judgement

A.S. Pachhapure, J.—It is on 05.08.2008, around 10.00 pm to 10.45 pm that there was robbery by the Petitioner and other accused persons, wherein the accused forcibly entered the house of the complainant, by showing a knife and by giving threat took away an amount of Rs. 5,000/- cash and golden ornaments etc., the value of which is subject to Rs. 2,30,000/- And in the circumstances the owner submitted a complaint to the police station on the next day. In the complaint he stated that the persons who looted the articles were speaking Kannada and in the age group of 25 to 35 years.

2. During the course of the investigation, in another case, the accused therein revealed the name of the Petitioner. Subsequently, there was joint recovery of golden ornaments at the instance of other accused, Thereafter, charge sheet was filed against the Petitioner for the offence u/s 395 of the Indian Penal Code.

3. The Petitioner submits that he is innocent and not involved in the crime. Further, he submits that there is no material against him for the offence punishable u/s 395 of IPC and he is ready and willing to abide by conditions that may be imposed by the court for his release.

4. I have heard the learned Counsel for the Petitioner and the Government Pleader. Except the identification parade, no material has been collected against the Petitioner. So far as the recovery is concerned in the complaint there are no particulars with regard to the nature and quality of golden ornaments said to have been robbed on that day. The additional statement was recorded, in which description of the ornaments is given and therefore the question as to whether the additional statement which has been produced later is to be accepted or not is a matter for consideration during trial. So far as the test identification parade is concerned, though in respect of other accused, the test identification parade was held on 23.02.2010, so far as the Petitioner is concerned it was held on 03.03.2010 by the Taluk Executive Magistrate. The copy of the report has been produced by the Petitioner in the charge sheet at page Nos. 78 and 79. So far as the Petitioner is concerned, though he WAS available and was in the judicial custody even on 23.03.2010 the test identification parade was not held, but it was held on 03.03.2010. The perusal copy of the report produced in page No. 79 of the charge sheet revealed that in the first portion of the report it is mentioned that the test identification parade was held in the office of the Taluk Magistrate but at the lower portion it is mentioned as Mangalore prison, Taking Into consideration the material placed on record and the fact, that the Petitioner has been released on bail in other cases it is just and proper to grant the bail. Hence, the petition is allowed.

5. The Petitioner is ordered to be released on bail in executing a personal bond for a sum of Rs. 50,000/- with two solvent sureties for the like sum to the satisfaction of the learned Sessions Judge with the further following conditions.

- (i) That the Petitioner shall produce Election Identification Card before the court.
- (ii) He shall furnish his permanent address.
- (iii) He shall not leave Chikmagalur District, without the permission of the court.
- (iv) He shall furnish the particulars of his avocation and place where he works.
- (v) He shall appear before the Mudigere Taluk police station every fifteen days that is on any Sunday in between. 10.00 am to 11.00 am.
- (vi) The Petitioner shall not directly or indirectly, make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.