

(2017) 03 KAR CK 0108
In the Karnataka High Court
Case No : 9101 of 2016

ROOPRAJ @ ROOPESH S/O. RAMEGOWDA APPELLANT
Vs
STATE OF KARNATAKA BY VARTHUR POLICE STATION RESPONDENT

Date of Decision : 02-03-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 439](#) - Special powers of High Court or Court of Session regarding bail
[Indian Penal Code, 1860](#), [Section 399](#),
[Section 402](#)

Citation : (2017) 03 KAR CK 0108

Hon'ble Judges : P.S.Dinesh Kumar

Bench : SINGLE BENCH

Advocate : V.ANAND, K.NAGESHWARAPPA

Final Decision : Allowed

Judgement

1. This petition under Section 439 Cr.P.C., is filed seeking enlargement of the petitioner on bail for the offences punishable under Sections 399 and 402 IPC in Crime No.271/2016 registered by Varthur Police Station.
2. Heard Shri. V. Anand, learned Counsel for the petitioner and Shri. K. Nageshwarappa, learned HCGP for the respondent-State.
3. Learned Counsel for the petitioner advertng to the complaint and the FIR submits that the complaint is registered suo motu by a Police Constable based on the source information, that the accused were making preparation to commit dacoity. He argued that it is mentioned in the complaint that the accused were found with iron rod and clubs at 5.30 p.m. which is highly improbable.
4. He further argued that in the remand application, the police have incorrectly stated that the accused had sold Lorry bearing registration No.KA-40- B-6669 for a sum of Rs.1,80,000/- and distributed the proceeds among themselves. In the circumstances, he prays for allowing this petition.

5. Petition is opposed by the learned HCGP.

6. I have given my careful consideration to the submissions made by the learned Counsel for the petitioner and the learned HCGP; and perused the material papers.

7. The complaint averment shows that the accused were making attempts to commit crime at 5.30 p.m. in the evening armed with lethal weapons. There is some force in the argument of the learned Counsel for the petitioner that it sounds improbable to accept the allegation that accused were preparing to commit the offence in the broad daylight. With regard to the sale of Lorry and distribution of proceeds of Rs.1,80,000/-, it is submitted by the learned HCGP that the said Lorry has been released in favour of it's owner by the II Additional Chief Judicial Magistrate, Bengaluru Rural District in Crime No.271/2016. Hence, theory of sale of lorry by accused is prima facie incorrect. Without expressing any view on merits, in my opinion, the petitioner shall be entitled for grant of bail with stringent conditions.

8. In the circumstances, in my view, this petition merits consideration and deserves to be allowed. Accordingly, it is directed that:

(i) Petitioner shall be released on bail in Crime No.271/2016 registered in Varthur Police Station, upon his executing a self bond for a sum of Rs.1,00,000/- with two sureties for the like sum to the satisfaction of the jurisdictional Court;

(ii) Petitioner shall co-operate with the Investigating Officer during the further course of investigation, if any and appear before him as and when called upon;

(iii) Petitioner shall not directly or indirectly make any inducement, threat or promise to prosecution witness or any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the Court or investigating officer;

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

(v) If the petitioner violates any one of the conditions, the prosecution shall be at liberty to seek cancellation of bail.

Petition allowed.