

(2009) 05 KAR CK 0006
In the Karnataka High Court
Case No : Criminal Petition No. 1453 of 2009

R.V. Vijayakumar @ Pappa now in Judicial Custody	APPELLANT
Vs	
State of Karnataka	RESPONDENT

Date of Decision : 07-05-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 143, 144, 147, 148, 307

Citation : (2009) 05 KAR CK 0006

Hon'ble Judges : K.N. Keshavanarayana, J

Bench : Single Bench

Advocate : G.R. Anil Gosh, for the Appellant; Honnappa, HCGP, for the Respondent

Final Decision : Dismissed

Judgement

K.N. Keshavanarayana, J.—The petitioner has been arraigned as Accused No. 13 in Crime No. 72/09 of Banaswadi Police Station. The said case has been registered for the offences punishable under Sections 143, 144, 147, 148, 307 r/w. 149 of I.P.C., on the basis of the complaint said to have been lodged by one Mr. Kumar, s/o. Kannan on 07.02.2009 alleging that when the complainant along with his elder brother Vejayudham and mother were talking by standing in front of their house in Satya Nagar Main Road, all the accused persons came there in a group armed with deadly weapons and committed acts of assault on him and his elder brother and when his nephews by name Satish, Prakash and Prabhu came there after hearing cries, they were also assaulted by the members of the group and as a result of the assault, all of them sustained grievous and simple injuries.

2. During investigation the petitioner was arrested and was subjected to judicial custody. His application for bail filed before the learned Sessions Judge came to be rejected, therefore, he has presented this petition u/s 439 of Cr.P.C. seeking an order to enlarge him on bail.

3. Learned counsel for the petitioner contended that there is no prima facie

material to indicate that the petitioner has committed any acts of assault on any of the injured persons and that itself indicate that there is no involvement of the petitioner in the alleged offence. He also contended that some other accused placed on the same footing have already been enlarged on bail by this Court in Criminal Petition Nos. 1141 of 2009 and 1139 of 2009. Therefore, the petitioner is also entitled to be enlarged on bail by applying the principles of parity.

4. On the other hand, Learned Government Pleader representing the Respondent-State submitted that the materials collected during investigation prima facie indicate that the petitioner as one of the members of the unlawful assembly has committed acts of assault on the complainant and others in the background of previous ill-will with the complainant. Therefore, he is not entitled to be enlarged on bail.

5. Perusal of the complaint allegations indicates that there is no specific overt-acts attributed against the petitioner herein. In the complaint, no doubt, the name of the petitioner has been indicated as a member of the group, which came near the house of the complainant armed with deadly weapons, However, the complainant in the complaint has not made any specific allegations against the present petitioner that he committed acts of assault on any of the injured persons. The investigation papers also do not prima facie indicate any overt-acts against the petitioner. Moreover the offences alleged against the petitioner are not punishable with death or life imprisonment A copy of the order passed in Criminal Petition No. 1141 of 2009 produced for perusal indicates that this Court has enlarged the Accused Nos. 4 and 5, on bail. The petitioner also stand on the same footing as that of other accused persons, who have already been enlarged on bail. Therefore, the principles of parity demands release of this petitioner also on bail.

6. Accordingly, the petition is allowed. The petitioner is ordered to be enlarged on bail in Cr. No. 72 of 2009 of Banaswadi Police Station, Bangalore, subject to his executing a personal bond for a sum of Rs. 25,000/-(Rupees Twenty Five Thousand only) with two sureties for the like-sum to the satisfaction of the jurisdictional Court and subject to further conditions that he shall not tamper or terrorise any of the prosecution witnesses in any manner; that he shall appear before the jurisdictional Court on all hearing dales without fail and that he shall not indulge in any acts similar to the one alleged against him.