

(2023) 11 KAR CK 0058
In the Karnataka High Court
Case No : Criminal Petition No. 9740 Of 2023

Satish Reddy G.A

APPELLANT

Vs

State Of Karnataka By SHO, Ramamurthy Nagar P.S.
Bangalore-560017 Rep. By SPP High Court Building
Bangalore-560001

RESPONDENT

Date of Decision : 27-11-2023

Acts Referred:

Indian Penal Code, 1860 — Section 143, 147, 149, 323, 427, 436, 448, 506
Code Of Criminal Procedure, 1973 — Section 438

Citation : (2023) 11 KAR CK 0058

Hon'ble Judges : S Vishwajith Shetty, J

Bench : Single Bench

Advocate : Nagesh K.V, Rahul Rai K

Final Decision : Allowed

Judgement

S Vishwajith Shetty, J

1. Accused No.1 in Crime No.387 of 2022 registered by Ramamurthy Nagar Police Station, Bengaluru City, for the offences punishable under Sections 143, 147, 323, 427, 436, 448 and 506 read with Section 149 of IPC, is before this Court under Section 438 of Cr.P.C.

2. Heard learned counsel for the parties.

3. On the basis of complaint dated 05.10.2022 lodged by Dr.S Santosh, son of P A Srinivas, Ramamurthy Nagar Police, Bengaluru have registered FIR in Crime No.387 of 2022 against the petitioner and others for the aforesaid offences. Apprehending arrest in the said case, the petitioner had filed CrI.Misc.No.25892 of 2022 before the IV Additional City Civil and Sessions Judge, Mayohall Unit, Bengaluru (CCH-21), which came to be rejected on 03.11.2022. Therefore, he is before this Court.

4. Learned counsel for the petitioner having re-iterated the grounds urged in the

petition submitted that, the averments made in the complaint would not attract offence under Section 436 of IPC against the accused. Except Section 436 of IPC, all other offences alleged in the FIR are bailable offences. Accordingly, he prays to allow the petition.

5. Per contra, learned High Court Government Pleader has opposed the bail application on the ground that the investigation is still in progress. The petitioner is not entitled for grant of anticipatory bail. Hence, he prays to dismiss the petition.

6. The complainant - Santosh had approached Ramamurthy Nagar Police Station on 05.10.2022 and had lodged typed complaint, wherein, he has stated that he was constructing commercial building in the property bearing site No.40 situated at 3rd Main Road, Horamavu, Amar Regency Layout, Bengaluru and on 04.10.2022, he was informed by the Ramamurthy Nagar Hoysala Police at about 11.00 p.m. that the glass in the construction building was broken and there was fire found near the building. The complainant upon receipt of the said information, rushed to the building site and found that the building glass was broken and near the electricity transformer, which was outside the building, fire was lit and on enquiry, the workers who were in the building informed him about 15 persons had barged into the building and had committed the offence.

7. From the reading of complaint averments, it is seen that the fire was found outside the under construction building, which is admittedly a commercial building. Therefore, a serious doubt arises as to whether the offence under Section 436 of IPC can be made out against the accused. Necessary ingredients to attract Section 436 of IPC is not prima facie found in the complaint. Under the circumstances, I am of the opinion that the petitioner has made out a case for grant of anticipatory bail. Hence, the following:

ORDER

Criminal Petition is allowed.

The respondent - police or any other police in the State of Karnataka are directed to release the petitioner in the event of his arrest in Crime No.387 of 2022 registered by Ramamurthy Nagar Police Station, Bengaluru City, for the offences punishable under Sections 143, 147, 323, 427, 436, 448 and 506 read with Section 149 of IPC, subject to the following conditions:

1. The Petitioner shall appear before the Investigating Officer within 15 days from the date of receipt of the copy of this order and shall execute a personal bond for a sum of Rs.1,00,000/-(One lakh only) with two sureties for the likesum to the satisfaction of the investigating officer.
2. Petitioner shall regularly appear before the Trial Court without fail unless exempted by the Trial Court for valid reasons.
3. Petitioner shall not tamper with the prosecution witness and he shall co-

operate with the police for investigation and appear before them whenever called upon.

4. The petitioner shall not involve in similar offences in future.