

(2012) 12 KAR CK 0093
In the Karnataka High Court
Case No : Criminal Petition No. 7411 of 2012

Sri. Chandula and Sri. Durgaram

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 26-12-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438

Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS) — Section 17, 18

Citation : (2012) 12 KAR CK 0093

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

Bench : Single Bench

Advocate : Vishnu Hegde, for the Appellant; B. Raja Subramanya Bhat, HCGP, for the Respondent

Final Decision : Allowed

Judgement

K.N. Keshavanarayana

1. Apprehending their arrest by Hebbagodi police in connection with the case in Crime No. 551/2012 registered for the offences punishable under Sections 17 and 18 of N.D.P.S. Act, these petitioners arraigned as accused Nos. 2 and 3 have presented this petition u/s 438 of Cr.P.C. seeking relief of anticipatory bail. According to the case of the prosecution, on 11.10.2012 PSI, Hebbagodi police station received credible information that a person, aged about 35 years is trying to sell opium in front of BTL college and immediately, PSI informed the said message to DYSP and after obtaining necessary permission, along with panchas and staff went near the college and apprehended the person, who was found with a Tiffin box in his hand and the said person disclosed his name as Omprakash, S/o. Kallaram (Accused No. 1). He was found possessing opium in small covers inside the Tiffin box. On weighing, the opium was found weighing about 380 grams. On interrogation, accused No. 1 said to have disclosed that these two petitioners had handed over the said opium to him for selling the same near the college so as to earn good money. On the basis of the said statement of

accused No. 1, these two petitioners were arraigned as accused Nos. 2 and 3.

2. On coming to know of the same, these petitioners approached the learned Sessions Judge for relief of anticipatory bail. However, the said petition came to be rejected by the learned Sessions Judge. Therefore, these petitioners are before this Court.

3. The petition is opposed by the respondent State.

4. I have heard the learned counsel for the petitioners and learned High Court Government Pleader. Perused the records made available.

5. As noticed supra, on the basis of the statement said to have been made by Accused No. 1, these two petitioners have been arraigned as accused Nos. 2 and 3 in the case registered by the respondent police for the offences punishable under Sections 17 and 18 of N.D.P.S. Act. Therefore, the apprehension of the petitioners that they are likely to be arrested is well founded. Even according to the case of the prosecution, opium, which is a contraband article, was recovered from the possession of accused No. 1. Accused No. 1 said to have disclosed that he got possession of the said opium from these two petitioners. However, at this stage, there are no prima facie materials to indicate that these petitioners were found in possession of any contraband articles. Merely, on the basis of the statement of accused No. 1, this Court cannot jump to the conclusion that there are reasonable grounds to believe the involvement of these petitioners in the offence alleged. Therefore, at this stage, there are no reasonable grounds to believe that these petitioners are guilty of any of the offences alleged. In this view of the matter, the petitioners are entitled for the relief of anticipatory bail. Hence the petition is allowed. The respondent - police are hereby directed to release the petitioners on bail, in the event of their arrest in connection with the case in Crime No. 551/2012 of Hebbagodi Police Station on their executing a personal bond for a sum of Rs. 1,00,000/- each with two sureties for the likesum to the satisfaction of the Investigating Officer and subject to further conditions that,

i) Upon such arrest and release, the petitioners for the purpose of investigation shall appear before the Investigating Officer whenever called upon to do so and co-operate in the investigation of the case.

ii) Petitioners shall not tamper or terrorize the prosecution witnesses in any manner.

iii) Petitioners shall not indulge in any acts similar to one alleged against them;

iv) Petitioner shall not leave the jurisdiction of the Special Court without express permission of the Court concerned;