

(2014) 02 KAR CK 0033
In the Karnataka High Court
Case No : Criminal Petition No. 695/2014

Sri Channappaji and Smt. Basamma @ Jayamma	APPELLANT
Vs	
State of Karnataka	RESPONDENT

Date of Decision : 24-02-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439
Penal Code, 1860 (IPC) — Section 143, 147, 148, 149, 307

Citation : (2014) 02 KAR CK 0033

Hon'ble Judges : Budihal R.B., J

Bench : Single Bench

Advocate : Lourdu Mariyappa A., Advocate for the Appellant; K. Nageshwarappa, HCGP, Advocate for the Respondent

Final Decision : Allowed

Judgement

Budihal R.B., J.—This petition is filed by petitioners-accused Nos. 1 & 2 u/s 439 of Cr. P.C. seeking their release on bail of the offences punishable under Sections 143, 147, 148, 341, 323, 324, 307, 506 r/w Section 149 of IPC registered in respondent-police station Crime No. 271/2013.

2. The brief facts of the prosecution case as per the averments in the complaint are that on 20.12.2013 at 11.00 a.m. petitioners and others have quarreled with the complainant's brother Mallikarjuna. Complainant's father had 4 children. Petitioners and their family members had enmity against the brother of complainant Mallikarjuna in respect of a land. In that connection, brother of the complainant Mallikarjuna had lodged complaint before the police. On 20.12.2013 at 10.30 a.m. when complainant along with others was proceeding at Kariganahalli village, petitioners and others by forming unlawful assembly holding sickle and club came there and restrained the complainant and others from proceeding further. By addressing complainant's brother Mallikarjuna, they have abused him in filthy language stating that "he has lodged the complaint and if he is alive then only he can lodge complaint and that they will commit his

murder. With that intention, petitioner No. 1 assaulted on the chest of Mallikarjuna and caused injuries. One Kumar by snatching sickle from the hand of petitioner No. 1 tried to assault on his head, at that time, complainant's brother brought his hand in the middle. Therefore, it fell on his left hand and he sustained grievous injuries. Kumar has assaulted complainant's brother on his head, wife of Cheenapaji has assaulted with club on his head. Others Putti, Shivamma, Geetha have kicked Mallikarjuna. When complainant tried to rescue his brother, mother of accused No. 1 has threatened the life of the complainant. On the basis of the said complaint, a case has been registered.

3. Heard the arguments of the learned counsel for the petitioners-accused Nos. 1 and 2 and also the learned Government Pleader for the respondent-State.

4. Learned counsel for the petitioners during the course of his arguments submitted that petitioner No. 1 is aged 62 years and petitioner No. 2 is the women aged about 52 years. They are ready to abide by any conditions to be imposed. Since 63 days they are in custody and the injured has already been discharged from the hospital. Hence, submitted to admit them to bail.

5. As against this, learned Government Pleader during the course of his arguments submitted that there are two eyewitnesses to the alleged incident of assault by the petitioners on the complainant's brother and causing injuries and thereby making an attempt to commit his murder. He has also submitted that there is a prima facie material placed by the prosecution to show the involvement of the present petitioners in the commission of the alleged offences. The matter is still under investigation,. "Hence, petitioners are not entitled to be granted with bail.

6. I have perused the averments made in the bail petition, FIR, complaint and other materials placed on record, so also, the order of the lower Court on the bail application.

7. Learned counsel for the petitioners during the course of his arguments submitted that the injured has been already discharged from the hospital and this fact is also admitted by the learned Government Pleader. This goes to show that the life of the injured is out of danger. The offences alleged u/s 307 of IPC along with other offences though non-bailable in nature, but not exclusively punishable with death or imprisonment for life. Petitioners have contended in the bail petition that they are totally innocent and they have been falsely implicated in the case. Further, looking to the age of petitioners, petitioner No. 1 is aged 62 years and petitioner No. 2 is a women aged 52 years, which fact is not disputed by the other side and since from the date of their arrest, they are in custody. The only apprehension of the prosecution is that if released on bail, petitioners may tamper the prosecution witnesses and they may even abscond, for which, conditions can be imposed to safeguard the interest of the prosecution.

8. Accordingly, petition is allowed. Petitioners-accused Nos. 1 and 2 are ordered to be released on bail of the offences punishable under Sections 143, 147, 148,

341, 323, 324, 307, 506 r/w Section 149 of IPC registered in respondent-police station Crime No. 271/2013, subject to following conditions:-

(i) Each petitioner shall execute a personal bond for a sum of Rs. 50,000/- and furnish a surety for the like sum to the satisfaction of concerned Court.

(ii) Petitioners shall not intimidate or tamper with prosecution witnesses directly or indirectly.

(iii) Petitioners shall appear before the concerned Court regularly.