
(2013) 12 KAR CK 0190
In the Karnataka High Court
Case No : Criminal Petition No. 11668 of 2013

Sri. Mahantesh

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 10-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0190

Hon'ble Judges : Jawad Rahim, J

Bench : Single Bench

Advocate : Santosh B. Malagoudar, for the Appellant; V.M. Banakar, Addl. SPP, for the Respondent

Final Decision : Allowed

Judgement

Dr. Jawad Rahim, J.—The petitioner who is ranked as accused No. 2 in Crime No. 20/2013, which is now registered as S.C. No. 79/2013 is facing charge for offences punishable under Sections 366, 376, 506, 342 read with Section 34 of the IPC. Heard the learned counsel for the petitioner and learned Addl. SPP and perused the records.

2. The prosecution has raised the charges referred to above against the petitioner and others on the basis of the complaint given by Mallikarjun to the jurisdictional police station on 29.03.2013 alleging, on 22.03.2013, while he was on his land along with his brother, sister-in-law and mother, he received information from his brother that, his wife and his son required medical check up and have to be take up to Alavandi. The complainant reached Bairapur cross to take up Eramma and his son, but he did not find them. On enquiry, he learnt that, between 11.00 am and 12.30 pm, while Eramma and son were waiting at Bairapur cross, the first accused-Dyamappa in conspiracy with the petitioner and others kidnapped them and kept them in illegal detention. The complainant could not locate them, but after some time came to know about their whereabouts and on enquiry he learnt that, first accused Dyamappa had molested her wife and kept her in illegal detention.

3. During investigation, several witnesses have been examined, all of whom had indicated, the petitioner is the driver of the vehicle, in which the first accused-Dyamappa kidnapped Eramma and her son.

4. Learned counsel for the petitioner submits, such a statement does not bring out any material against the petitioner to prove charge punishable u/s 376 or Section 342 of the IPC. He submits, the allegations are directly made against the first accused Dyamappa. But this Court considering the material opined, his detention is not justified and granted bail. He submits, when the main offender has been released on bail, the petitioner would also be entitled to the same benefit.

5. Sri. V.M. Banakar, learned Addl. SPP opposed grant of bail.

6. From the undisputed facts, it could be seen, direct allegations are made against the first accused of illicit physical intimacy with Eramma and alleged rape, whereas against the petitioner allegation is, he drove the vehicle in which the first accused kidnapped the woman and his son. Since the first accused has been granted bail, regarding which I do not wish to express any opinion in this order, the petitioner also would be entitled to the same benefit. Only based on that order, the petition is allowed. The petitioner shall be released on bail subject to following conditions:

- i. Petitioner shall execute a bond for a sum of Rs. 25,000/- with one solvent surety for the like sum to the satisfaction of the jurisdictional Court.
- ii. Petitioner shall not tamper the prosecution material or prevail upon witnesses by any means.
- iii. Petitioner shall make himself available to the Investigating Authority as and when required for the purpose of investigation.
- iv. Petitioner shall not leave the Sessions jurisdiction of the Court without prior permission.