

(2011) 09 KAR CK 0162

In the Karnataka High Court

Case No : Criminal Petition No. 5079 of 2011

Sri. Ramachandra Kudthalkar, Panduranga Eswar Shet and
Raghavendra Eswar Shet

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 23-09-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 34, 406, 420

Citation : (2011) 09 KAR CK 0162

Hon'ble Judges : H. Billappa, J

Bench : Single Bench

Advocate : K.G. Sadashivaiah for S and S Associates, for the Appellant; B. Raja Subramanya Bhat, HCGP., for the Respondent

Final Decision : Allowed

Judgement

The Hon"ble Mr. Justice H. Billappa

1. The petitioners have filed this petition u/s 438 of Criminal Procedure Code praying for grant of anticipatory bail.

2. It is stated in the petition that the petitioners are innocent of the offence alleged against them and they have been falsely implicated in the case.

The petitioners are permanent residents of Karki village, Honnavara taluk and they are ready to abide by all conditions that may be imposed.

Therefore, the petitioners have prayed for grant of anticipatory bail.

3. The complainant Ganesh D. Shet is doing Jewellery business under the name and style of J.M.S Jewellaries, Davanagere. It is alleged that A1

Narayana Vadiraj Kudthalkar is the brother of the first petitioner. He is doing the Jewellery business at Ankola taluk. A1 is the agent of Ganesh D.

Shet and used to take Jewellery from Ganesh D. Shet and sell it: at different places. A1 Narayana Vadiraj Kudthalkar took 3 kgs and 850 grams of gold ornaments from the complainant during first week of May 2011.

4. On 21.06.2011, A1 handed over 850 grams of gold to the first petitioner to hand it over to the complainant. The first petitioner left Ankola at about 6.30 p.m. Some strangers took the first petitioner in a vehicle assuring that they would drop him at Hubli. While travelling, the inmates of the vehicle snatched away the gold, mobile and cash of ` 750/-. The first petitioner came to Honnavara and informed his brother A1 Narayana Vadiraj Kudthalkar. On 21.06.2011, complaint was lodged and a case in Crime No.148/2011 of Ankola police station was registered A1 was arrested and released on bail on 01.07.2011.

5. Thereafter, the complainant Ganesh D. Shet has lodged the complaint on 07.07.2011 alleging that A1 Narayana Vadiraj Kudthalkar had taken 3 kgs and 850 grams of gold ornaments and in connivance with the petitioners. A1 has sold the gold at Kumta, Honnavara and other places and to cheat the complainant they have played drama of dacoity. A case in Crime No. 109/2011 of Extension Police Station, Davanagere has been registered for the offences punishable under Sections 406 and 420 r/w. Section 34 of IPC.

6. The learned counsel for the petitioner contended that the petitioners are innocent of the offences alleged against them and they have not committed any offence. He also submitted that the police have arrested A1 and recovered gold articles from A1 and they have been released in favour of the complainant. He therefore submits that the petitioner can be granted anticipatory bail.

7. As against this the learned Government Pleader submitted that the matter is under investigation and the petitioners are required for investigation and therefore, the petitioners cannot be granted anticipatory bail.

8. I have carefully considered the submissions made by the learned counsel for the parties.

9. The point that arises for consideration is;

Whether the petitioners can be granted anticipatory bail?

10. It is relevant to note, the allegations are that 3 kgs and 850 grams of gold was taken by accused No. 1 and accused No. 1 in connivance with

the petitioners has sold the gold articles at Kumta. Honnavara and other places and to cheat the complainant they have played drama of dacoity. In

the course of investigation gold articles have recovered at the instance of A1. The Magistrate has released Gold articles in favour of the

complainant. The allegations against the petitioners are that they have connived with the Accused No.1. The accused No.1 has been released on

bail. Therefore, the petitioners can be granted anticipatory bail subject to certain conditions.

11. Accordingly, the petition is allowed and the petitioners are granted anticipatory bail subject to the following conditions:

i. In the event of their arrest in Crime No. 109/2011 of Extension Police Station, Davanagere, the petitioners shall be released on bail on their

executing a bond in a sum of Rs. 50,000/- each with one surety for the for the likesum to the satisfaction of the I.O.

ii. The petitioners shall appear before the I.O. within eight days from today and shall cooperate with the I.O. for investigation as and when required.

iii. The petitioners shall not tamper with the witnesses.

iv. If the petitioners violate any conditions, the respondent - State can move for cancellation of the bail.