

(2014) 02 KAR CK 0263

In the Karnataka High Court

Case No : Criminal Petition No. 7608/2013

Sri. Thimmaraju @ Thimmarayappa @ Raju

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 03-02-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439
Penal Code, 1860 (IPC) — Section 302

Citation : (2014) 02 KAR CK 0263

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

Bench : Single Bench

Advocate : P.M. Siddamallappa, Advocate for the Appellant; K. Nageshwarappa, HCGP, Advocate for the Respondent

Final Decision : Allowed

Judgement

Budihal R.B., J.—This petition is filed by the petitioner-accused No. 1 u/s 439 of Cr.P.C. seeking his release on bail of the offence punishable u/s 302 of IPC registered in respondent Police Station Crime No. 323/2013.

2. Brief facts of the case as alleged in the complaint are that the deceased Smt. Latha, wife of the petitioner-accused, both were residing in a rented house No. 28, 1st Floor, 2nd Cross, near Pepsi Godown, Suvarnanagar, Doddabidarakallu. The accused found fault with his wife on the cause of the wife leaving matrimonial house often and used to come to the house in the late hours. On enquiry, the deceased threatened him with dire consequences. After that, she left matrimonial house for a period of 10 days and her whereabouts was not known. Ultimately, she came back on 18.05.2013. When the accused enquired her whereabouts, she refused to disclose the same. They came to the understanding of pardoning each other. They had dinner in the night along with complainant. The complainant left the house of the deceased at 10.00 p.m. It is alleged that subsequently, the accused No. 1 alleged to have murdered deceased by using saree and left the house. On the basis of the said complaint, the case was

registered by the respondent police.

3. I have heard the learned Counsel appearing for the petitioner-accused No. 1 and the learned High Court Government Pleader appearing for the respondent-State.

4. Learned Counsel for the petitioner, during the course of the arguments, submitted that there are no eye witnesses to the alleged incident. The entire case of the prosecution is on the basis of the circumstantial evidence. The learned counsel submitted that the petitioner is falsely implicated in the case and he is innocent. He has not at all committed the alleged offence. He submitted that all the materials collected by the investigating officer during investigation will not make out prima case against the petitioner for the alleged offence u/s 302 IPC. He submitted that by imposing reasonable conditions, the petitioner may be admitted to bail.

5. As against this, learned High Court Government Pleader appearing for the respondent-State, during the course of the arguments, submitted that though there are no eye witnesses to the alleged incident, the investigating officer has collected statement of witnesses which goes to show the relationship of the deceased with petitioner was not cordial and they were quarrelling each other. The character and conduct of the deceased was also not good. She used to go out of the house coming late night. If the petitioner used to enquire her, there used to be quarrel between them. The learned HCGP further submitted that the petitioner himself has stated before the complainant that he himself has committed the murder of the deceased. Hence, he submitted that there is prima facie materials against the petitioner and hence, he is not entitled to be released on bail.

6. I have perused the averments made in the bail petition, FIR, complaint and the other materials on record. I have also perused the order passed by the lower Court on the bail petition. It is an admitted fact that according to both sides, there are no eye witnesses to the alleged incident. It is true that statement of some of the witnesses were recorded by the investigating officer which goes to show that the relationship of the deceased with the petitioner was strained and it was not cordial. It is also the case of the complainant that the petitioner himself made a statement before him that he has committed murder of the deceased Latha. These are all the aspects to be established by the prosecution during the course of trial. Looking to the materials, at this stage, I am of the opinion that there are no reasonable grounds to believe that the petitioner has committed the offence punishable with death or imprisonment for life. The apprehension of the prosecution that if bail is granted, the petitioner may abscond and he may tamper the prosecution witnesses, interest of the prosecution can be safeguarded by imposing reasonable conditions. Therefore, it is a fit case to exercise discretion in favour of the petitioner.

7. In the result, The petition is allowed. The petitioner is ordered to be released

on bail of the offence punishable u/s 302 of IPC registered in respondent police station Crime No. 323/2013, pending in S.C. No. 1042/2013 on the file of the V Additional City Civil and Sessions Judge, Bangalore City, subject to following conditions:-

I. The petitioner shall execute bonds for a sum of Rs. 1,00,000/- (Rupees one lakh only) and shall offer a surety for the like sum to the satisfaction of jurisdictional Court.

II. The petitioner shall not intimidate or tamper with prosecution witnesses, directly or indirectly.

III. The petitioner shall attend the concerned Court regularly.