

(2010) 01 KAR CK 0023

In the Karnataka High Court

Case No : Criminal Petition No. 5811 of 2009

Thimmarayappa alias Yadalli

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 13-01-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 143, 147, 148, 302

Citation : (2010) 2 Crimes 778 : (2010) 2 KarLJ 172

Hon'ble Judges : A.S. Pachhapure, J

Bench : Single Bench

Advocate : D.R.P. Babu and Associates, for the Appellant; Raja Subramanya Bhat, High Court Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

A.S. Pachhapure, J.—This petition is filed u/s 439 of the Criminal Procedure Code, 1973 requesting for grant of bail having been arrested for the offence punishable under Sections 143, 147, 148, 302 read with Section 149 of the Indian Penal Code, 1860.

2. The facts relevant for the purpose of this petition are as under:

M. Manjunath, son of the deceased-Muniswamy submitted his complaint to the Bannerghatta Police stating that on 10-5-2009 at about 7.45 p.m. when the deceased was bringing the household articles from the shop, found that on the way cows and cattle were tied, he abused the persons who had tied the cattle and as there was enmity amongst the petitioner and the other accused with the deceased earlier, it is alleged that the petitioner and the other accused formed an unlawful assembly and assaulted the deceased. It is stated that accused 1 caused assault on the deceased with iron rod, accused 2, 3 and 4 caused assault with clubs, the petitioner, who is accused 5 assaulted the deceased with club, whereas the accused Sampangi caused assault on the deceased with iron rod and so also the other accused caused assault with different other weapons.

After the assault, the complainant with the assistance of others lifted the deceased and took him to the house, by the time the deceased was succumbed to the injuries. In the circumstances, the son of the deceased filed the complaint to the police on these grounds and Crime No. 145 of 2009 is registered by Bannerghatta Police.

3. The petitioner submits that he is innocent and has not committed any crime much less the one alleged against him. He also submits that he is aged about 70 years and in case if he is continued to be in the custody, his health will be deteriorated. Furthermore, it is his submission that the accused Sarojamma, Sampangi and Kavitha have been granted bail by this Court, wherein there is an allegation against Sampangi is that he also caused assault on the deceased with iron rod. So, the petitioner submits that he is ready and willing to abide by any conditions that may be imposed by this Court for grant of bail. On these grounds, he has sought for bail.

4. The learned Government Pleader has opposed the petition. He submits that there is prima facie material for the offence alleged and requests to reject the bail petition.

5. I have heard the learned Counsel for the petitioner and also the learned Government Pleader.

6. The point that arises for my consideration is:

Whether the petitioner is entitled to the bail sought for?

7. Now as could be seen from the copy of the order produced in Cri. P. No. 4256 of 2009, this Court has granted bail to Sampangi and 2 other accused i.e., Sarojamma and Kavitha. The allegations made in the complaint reveal that Sampangi who was aged 45 years has caused assault on the deceased with iron rod. So for as the allegations made against the petitioner is concerned, he has caused assault on the deceased with club and he is aged about 70 years at the time of the incident. So, taking into consideration these circumstances and adopting the principle of parity, I am of the opinion that the petitioner is also entitled to the bail sought for. Hence, I answer the point in affirmative and proceed to pass the following:

ORDER

The petition is allowed. The petitioner is ordered to be released on bail on his executing a personal bond for a sum of Rs. 25,000.00 with one solvent surety for the like sum to the satisfaction of the Trial Court with the following further conditions:

(i) The petitioner shall not tamper with the prosecution witnesses or the material evidence.

(ii) He shall appear before the Court regularly.

(iii) He shall mark attendance once in fifteen days before the jurisdictional police between 10.00 a.m. and 2.00 p.m. preferably on Sunday.

(iv) In the event of petitioner"s default in appearing before the Court or violation of any of the bail conditions, the prosecution is at liberty to seek for cancellation of the bail.