

(2023) 09 KAR CK 0022

In the Karnataka High Court

Case No : Criminal Petition No. 201308 Of 2023 (438)

Zameer @ Zameer Ahmed

APPELLANT

Vs

State Of Karnataka

RESPONDENT

Date of Decision : 08-09-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438

Indian Penal Code, 1860 — Section 34, 307, 323, 324, 326, 504, 506

Citation : (2023) 09 KAR CK 0022

Hon'ble Judges : Venkatesh Naik T, J

Bench : Single Bench

Advocate : Mahadev S.Patil, S.D. Rathod, Anita M. Reddy

Final Decision : Allowed

Judgement

Venkatesh Naik T, J

1. Heard the learned counsel for the petitioner and the learned High Court Government Pleader for the respondent State.

2. The petitioner, who is accused No.4 has filed this petition under Section 438 of Cr.P.C. for grant of anticipatory bail in Crime No.110/2023 of Gandhi Chowk police station, Vijayapura district for the offences punishable under Sections 323, 324, 326, 307, 504 and 506 read with Section 34 of IPC.

3. Brief facts of the prosecution case are that, on 26.06.2023 at 5.15 p.m., the complainant lodged a complaint alleging that accused No.3, who is his wife was frequently talking with some persons over phone, thus, the complainant was objecting the same. On 25.06.2023, at 6.00 p.m., while the complainant came to his house, accused No.3 was talking over phone and hence, the complainant objected her and thus, she picked up quarrel with the complainant and thereafter, at about 10.00 p.m., she came along with her brother to his house, after seeing them, the complainant started proceeding towards Secab School, at that time, the petitioner took quarrel with the complainant, abused him in filthy

language, intentionally provoked his breach of peace. Accused No.1 assaulted the complainant with knife on his neck and caused bleeding injuries, while accused No.2 and this petitioner/accused No.4 have assaulted the complainant with their hands on his face and cheek, thus, caused injuries. Therefore, the complainant lodged a complaint. Apprehending his arrest at the hands of the respondent - police, the petitioner has filed a petition before the First Additional Sessions Judge, Vijayapura in CrI.Misc.No.1103/2023, who in turn, dismissed the same on 26.07.2023. Hence, the petitioner has filed the present petition.

4. The learned counsel for the petitioner/accused No.4 contended that, the petitioner is innocent and he has not committed any offence; there are matrimonial disputes between accused No.3 and the complainant; the petitioner hails from a respectable family and he has movable and immovable property in his locality; he would abide by the conditions to be imposed by this Court. On all these grounds, learned counsel prayed for grant of anticipatory bail to the petitioner.

5. The learned High Court Government Pleader filed her statement of objections and contended that, prima facie there is a case against this petitioner and he has committed the offences punishable under Sections 326 and 307 of IPC; if he is released on bail, he may threaten the prosecution witnesses and hamper the investigation. Thus, she prayed for dismissal of the petition.

6. On perusal of the complaint averments, it appears that, accused No.3 was frequently talking with her friends over phone and therefore, the complainant objected her for the same. In this regard, she called her brothers and on 25.06.2023, herself and her brothers assaulted the complainant. As per the allegations, accused No.1 - Makdum Inamdar assaulted the complainant with the knife on the neck of the complainant and caused bleeding injuries.

7. The only allegation against the present petitioner is that, he also assaulted the complainant with his hands on his face and cheek. Admittedly, this Court has granted bail to accused Nos.2 and 3 in Criminal Petition No.201221/2023 on 09.08.2023. The allegations made against this petitioner, who is accused No.4 are also stands on the same footing as that of accused Nos.2 and 3.

8. It is well established principles of law that while considering a bail petition, the Court has to consider the nature of the offences, circumstances in which the offence is committed, position and status of the accused with reference to the victim and witnesses; likelihood of fleeing away from justice or repeating same offences by the accused, tampering with witnesses, character and antecedents of the accused. Further, the law is well settled that while disposing of bail petition, Court need not scan the prosecution papers and hold a mini trial. Keeping all these factors in mind, on careful perusal of the entire material placed on record, this Court is of the opinion that petitioner/accused No.4 is entitled for grant of anticipatory bail. Hence, the Court pass the following:

ORDER

The bail petition filed by the petitioner under Section 438 of Cr.P.C. is allowed. The petitioner/accused No.4 is ordered to be enlarged on bail in Crime No.110/2023 of Gandhi Chowk police station, Vijayapura district, on he executing a personal bond for a sum of Rs.1,00,000/- with a surety for the likesum to the satisfaction of the Trial Court, in the event of his arrest by the respondent - police, subject to the following conditions:

1. The petitioner shall surrender before the Investigating Officer/SHO within 10 days from today.
2. He shall not threaten the prosecution witnesses and shall cooperate with the Investigating Officer during the investigation.
3. He shall appear before the jurisdictional Court without fail.
4. He shall mark his attendance before the respondent - police once in a month i.e., on first Sunday of every month in between 10.00 a.m. to 5.00 p.m. until filing of charge sheet or 6 months, whichever is earlier.