
(2022) 02 KAR CK 0034

Karnataka High Court At Bengaluru

Case No: Criminal Petition No. 539 Of 2022

S Abhilash

APPELLANT

Vs

State Of Karnataka

RESPONDENT

Date of Decision: Feb. 17, 2022

Acts Referred:

Code Of Criminal Procedure, 1973 " Section 439#Indian Penal Code, 1860 " Section 379, 392

Citation: (2022) 02 KAR CK 0034

Hon'ble Judges: H.P. Sandesh, J

Bench: Single Bench

Advocate: Madhusudhan M.N, Vinayaka V.S

Final Decision: Allowed

Judgement

H.P. Sandesh, J

1. This petition is filed under Section 439 of Cr.P.C. seeking regular bail of the petitioner in Crime No.217/2021 of Pavagada Police Station, Tumukur

District for the offence punishable under Section 392 of Indian Penal Code.

2. Heard the learned counsel appearing for the petitioner and the learned High Court Government Pleader appearing for the State.

3. The factual matrix of the case is that on 01.10.2021 at about 6.50 p.m, near Yoginarayana Swamy Temple, two unknown persons came in a

motorcycle and snatched the gold chain weighing 60 grams and hence, the case has been registered for the offence punishable under Section 392

IPC. This petitioner along with accused No.2 were arrested and accused No.2 produced subject matter of the gold chain, which was snatched and the matter is under investigation.

4. Learned counsel appearing for the petitioner would submit that the case was registered against the unknown persons at the first instance and

thereafter, this petitioner and other accused were apprehended and no recovery was made at the instance of this petitioner and recovery was made

only at the instance of accused No.2 and in other cases also, no recovery was made at the instance of this petitioner and only on the basis of the co-

accused statement, this petitioner has been arraigned as accused No.1 and hence, he has been falsely implicated in the case and prayed to allow the

petition .

5. Per contra, learned High Court Government Pleader appearing for the State would submit that joint recovery was made in respect of this incident

as well as Crime No.175/2021 and recovered gold articles at the instance of accused No.2. Hence, Crime No.175/2021 is registered. Apart from that,

there was eight cases at Andhra State and two cases at Karnataka and hence, he is a habitual offender.

6. Having heard the learned counsel for the parties and on perusal of the material available on record, this petitioner is in custody from 08.12.2021 and

the recovery was made at the instance of accused No.2 and not at the instance of this petitioner and both the recovery in respect of this crime as well

Crime No.175/2021 also from accused No.2 and no doubt other eight cases at Andhra State and two cases at Karnataka and those two cases

registered for the offence punishable under Section 379 IPC and this petitioner is arrayed as accused based on the statement of the co-accused

person. When such being the factual aspect of the case and when there is no recovery at the instance of this petitioner, this Court can safeguard the

interest of the prosecution by imposing the condition that if the petitioner commits similar offence in future, the State is at liberty to cancel the bail.

7. In view of the discussions made above, I pass the following:

ORDER

The petition is allowed. Consequently, the petitioner/accused No.1 shall be released on bail in connection with Crime No.217/2021 of Pavagada Police

Station, Tumukur District registered for the offence punishable under Section 392 of IPC, subject to the following conditions:

(i) The petitioner shall execute his personal bond for a sum of Rs.2,00,000/- (Rupees Fifty Thousand only) with two sureties for the like- sum to the

satisfaction of the jurisdictional Court.

(ii) The petitioner shall not indulge in tampering the prosecution witnesses.

(iii) The petitioner shall appear before the jurisdictional Court on all the future hearing dates, unless exempted by the Court for any genuine cause.

(iv) The petitioner shall not leave the jurisdiction of the Trial Court without prior permission of the Court till the case registered against him is disposed

of.

(v) State is at liberty to cancel the bail in case of any similar offence committed by this petitioner in future.