
Sunil L. J. Vs State Of Karnataka

Criminal Petition No. 4510 Of 2023

Court: Karnataka High Court At Bengaluru

Date of Decision: Sept. 7, 2023

Acts Referred:

Indian Penal Code, 1860 " Section 143, 149, 302

Citation: (2023) 09 KAR CK 0019

Hon'ble Judges: S Vishwajith Shetty, J

Bench: Single Bench

Advocate: K. L. Sreenivas, B. A. Belliyappa, Sowmya R

Final Decision: Allowed

Judgement

S Vishwajith Shetty, J

1. Accused No.3 in crime No.141/2022 registered by Melukote Police Station, Mandya for offences punishable under Sections 143, 302 and 149 of the

Indian Penal Code, 1860 ('the IPC' for short) is before this Court seeking regular bail.

2. Heard the learned counsel appearing for the parties.

3. On the basis of the complaint lodged by Swamy L.C., dated 29.09.2022 FIR in crime No.141/2022 was registered by Melukote Police against five

accused persons, who are named in the complaint. Petitioner is arraigned as accused No.3 in the FIR. As per the complaint averments, complainant is

the father of Dhananjaya, who had some ill-will with Rohitha son of Rangaswamy. Rohitha allegedly had threatened complainant's son with dire

consequences to his life. Complainant's son Dhananjaya was accused in a criminal case where he had allegedly assaulted Rohitha's uncle's son. In this

regard Rohitha had a ill-will against complainant's son Dhananjaya. On 29.09.2022 at about 10.30a.m. after the complainant had returned home from

his shop, his brother Kenchegowda informed him that near Sarovara hotel in their village, the accused persons had fought with Dhananjaya and had

assaulted him with deadly weapons. Immediately complainant went near Sarovara hotel and he was informed that his son was taken to hospital at

Pandavapura. When the complainant reached the hospital at Pandavapura, he found the dead body of his son. Thereafter, he had approached the

Police and lodged the complaint. During the course of investigation accused No.3 was arrested on 11.10.2022. Investigation in the case is complete

and the charge sheet has been filed. Bail application filed by the petitioner before the Court III Additional District and Sessions Judge, Mandya, sitting

at Srirangapatna was dismissed and therefore, the petitioner is before this Court.

4. The learned counsel appearing for the petitioner submits that there is no allegation of assault on the deceased by the petitioner herein. Petitioner

allegedly held the hand of deceased so as to facilitate accused Nos.1 and 2, to assault the deceased. Accused No.5 as against whom there are almost

similar allegations has been granted regular bail by this Court in CrI.P.No.4000/2023. He accordingly, prays to allow the petition.

5. Per contra, learned SPP appearing on behalf of respondent - State submits that accused Nos.3 and 4 were through out present with accused Nos.1

and 2 and they share a common intention. Though there are no allegations of assault by accused Nos.3 and 4 on the deceased they had held deceased

and enabled accused Nos.1 and 2 to assault him. He submits that accused Nos.3, 4 and 5 do not stand on the same footing. Therefore, on the ground

of parity, accused No.3 cannot be enlarged on bail.

6. Law was set in motion in the present case on the basis of the complaint lodged by the father of the deceased. In the complaint, the presence of the

petitioner herein along with accused Nos.1 and 2 has been stated. During the course of investigation, the accused No.3 was arrested on 11.10.2022.

As per the charge sheet allegations, accused No.1 had fought with deceased Dhananjaya inside the hotel and thereafter, had sent accused No.4 to

fetch the weapons. Accused Nos.4 and 5 bought a long and knife and handed over the same to accused Nos.1 and 2. Thereafter, accused No.1

induced deceased Dhananjaya to accompany him to the backyard of the hotel and at that time, accused Nos.3 and 4 allegedly held Dhananjaya and at

their instigation, accused Nos.1 and 2 assaulted Dhananjaya with long and knife, respectively. As a result of the said assault, Dhananjaya had

succumbed to the injuries. The only allegation as against accused Nos.3 and 4 is that they had held the deceased, so as to facilitate accused Nos.1 and

2 to assault him. Accused Nos.4 and 5 allegedly had bought the weapons after accused No.1 had initially quarreled with the deceased inside the hotel.

Therefore, the charge sheet allegation would indicate that accused No.5 was also present with accused Nos.1 to 4. Accused No.5 has been already

enlarged on regular bail by this Court in CrI.P.No.4000/2023, which was disposed of on 07.06.2023. The petitioner is in custody since 11.10.2022.

Investigation in the case is complete and the charge sheet has been filed. Accused Nos.1 and 2 as against whom there are allegations of assault are in

custody and their bail applications have been dismissed as withdrawn by this court with liberty to approach this Court after examination of the eye

witnesses is completed. Under these circumstances, I am of the view that the prayer made by accused No.3 for grant of regular bail is required to be

answered affirmatively.

7. Accordingly, the petition is allowed. The petitioner is directed to be enlarged on bail in Crime No.141/2022 of Melukote Police Station registered for

the offences punishable under Sections 143, 302 and 149 of the IPC, subject to the following conditions:

a) Petitioner shall execute personal bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with two sureties for the likesum, to the satisfaction of the

jurisdictional Court;

b) The petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid

reasons;

c) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;

d) The petitioner shall not involve in similar offences in future;

e) The petitioner shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against him is disposed

off.