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**Sandeep Vs. the State of Karnataka Through Nutan Nagar Police Station**

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**SooperKanoon Citation** : sooperkanoon.com/1105826

**Court** : Karnataka Gulbarga

**Decided On :** Dec-18-2013

**Judge** : Huluvadi G. Ramesh

**Appeal No.** : Criminal Petition Nos. 16040, 16054, 16055 & 16057 of 2013

**Appellant** : Sandeep

**Respondent** : The State of Karnataka Through Nutan Nagar Police Station

**Judgement** :

(Prayer: These criminal petitions are filed U/S.439 of Cr.P.C praying to enlarge the petitioners on bail in crime No.252/2013 of Nutan Nagar police station, dist: Bidar, which is registered for the offences P/U/S 143, 147, 148, 448, 365, 302, 201, 504 and 506 R/W 149 of IPC.)

1. The petitioner have sought for grant of bail in connection with Crime No.252/2013 of Nutan Nagar Police Station, Dist: Bidar, registered for the offence punishable under Sections 143, 147, 148, 448, 365, 302, 201, 504 and 506 r/w 149 of IPC.

2. Heard the learned counsel for the petitioners and the learned Addl. SPP.

3. It is alleged in the complaint given by the complainant Chandrakala that on 5.10.2013, in all about nine persons committed the murder of her son Sunilkumar. It is alleged that this Sunilkumar was talking over mobile phone with the daughter

of Jagannath Jamadar accused No.1 and that the daughter of accused 1 Sudharani also used to talk to the deceased Sunikumar. Though both of them were advised to discontinue the talks, but they did not do so. As such on 5.10.2013 around 2.00 p.m., when the complainant and her brother Santosh entered the house and saw that deceased Sunilkumar was taking rest, at that time, petitioner Sandeep along with others forming themselves into an unlawful assembly, armed with iron rod, club, and pipes came in the vehicle and committed house trespass and lifted Sunilkumar forcibly and took him in the vehicle. Meanwhile, Santosh the brother of Sunilkumar chased the vehicle on his motorcycle for a little while and when he found that somebody were standing near the shop of Bhavani Traders, Santosh the brother of Sunilkumar and his friends went there and found that Sunilkumar was assaulted by accused No.2 Mallikarjun with iron rod, accused No.4 Manikrao assaulted with steel pipe and accused No.3 Anil and accused No.8 Suryakanth assaulted with the clubs. Witnessing the same, Santosh brother of the Sunilkumar tried to pacify the accused persons despite which they continued to assault on Sunilkumar over his head and other parts of body.

4. According to the learned counsel for the petitioners, the petitioners are innocent of the alleged offences and they have falsely implicated in this case. The deceased Sunilkumar was talking to the daughter of Jagannath Jamadar but not on his own but the daughter of accused No.1 Sudharani was also talking to deceased Sunilkumar. Though they have been advised to discontinue, they did not do so. On that ground, deceased was done to death for which the petitioners are not responsible. Accordingly, he sought for grant of bail.

5. The learned Addl. SPP has submitted that there is a prima facie case against the petitioners and as many as several injuries were found on the body of the deceased. Accordingly, he sought for rejection of bail.

6. In Criminal Petition No.16040/2013, the petitioner is Sandeep, in Criminal Petition No.16054/2013 the petitioner is Santosh, in Criminal Petition No.16055/2013 the petitioner is Mallikarjun, in Criminal Petition No.16057/2013 the petitioner is Suryakanth.

7. As per the overt act attributed, accused No.2 Mallikarjun assaulted from the iron rod, accused No.4 Manikrao assaulted from the steel pipe, accused No.8 Suryakanth is said to have assaulted the deceased from the club. As per the post mortem report, the cause of death is due to head injury. The allegation against the petitioner Sandeep in Criminal Petition No.16040/2013 who is said to be a student, he has participated in the commission of the offence by way of committing house trespass and has assisted in bringing out the deceased from the house. However, it appears there is no overt act of assault on the deceased, as such, the case of the petitioner Sandeep may be considered as he may be secured easily, as he is a student. Similarly, in Criminal Petition No.16054/2013, the petitioner is Santosh and there is no overt act against him but he also has participated in committing house trespass and also lifted the deceased from the house. However, as regards accused No.2 namely Mallikarjun and accused No.8 Suryakanth, their case cannot be considered for grant of bail. Accordingly, petitions in so far as petitioners in Criminal Petition Nos.16055/2013 and 16057/2013, is rejected.

8. Further, petitioners in Criminal Petition No.16040/2013 and Criminal Petition No.16054/2013, be released on bail on each of them executing a personal bond for Rs.1,00,000/- and surety for the said sum to the satisfaction of the concerned Magistrate subject to the following conditions.

i) The petitioners namely Santosh and Sandeep, shall make themselves available to the investigating agency as and when required.

ii) They shall not tamper the prosecution witnesses.

iii) They shall not commit similar offence. iv) They shall mark their attendance every Sunday between 8.00 a.m. to 5.00 p.m. before the concerned police station until further orders.

Accordingly, Criminal Petition No.16040/2013 and Criminal Petition No.16054/2013 are allowed and Criminal Petition No.16055/2013 and 16057/2013 are dismissed.

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