

**Shabbir and Others Vs. the State of Karnataka Through Manvi Police Station
Represented by Addl., State Public Prosecutor**

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Court : Karnataka Gulbarga

Decided On : Oct-09-2012

Judge : C.R. Kumaraswamy

Appeal No. : Criminal Petition No. 15949 of 2012

Appellant : Shabbir and Others

Respondent : The State of Karnataka Through Manvi Police Station Represented
by Addl., State Public Prosecutor

Judgement :

(Prayer: This criminal petition is filed under Section 439 of Cr.P.C. by the Advocate For the petitioners praying to enlarge the petitioners on bail in crime No.74/2012, registered by Manvi Police, Dist. Raichur, for offences punishable under Sections 143, 147, 148, 149, 307, 323, 324, 302 IPC (Now Pending In C.C.No.624/2012 on the file of Civil Judge Junior Division and JMFC Manvi).)

1. This Criminal Petition is filed under Section 439 of Cr.P.C. by the advocate for the petitioner praying to enlarge the petitioners on bail in Crime No.74/2012, registered by Manvi Police, Raichur Dist., for the offences punishable under Sections 143, 147, 148, 149, 307, 323, 324, 302 of Indian Penal Code.

2. I have heard the learned counsel for the petitioners as well as learned High Court Government Pleader for respondent - State. I have perused the FIR found in the records.

3. The contents of FIR discloses that Manvi Police have registered a case in Crime No.74/2012 against accused Nos.1 to 10 for the offences punishable under Sections 143, 147, 148, 307, 323, 324, 149 of Indian Penal Code. It is alleged in the FIR that on 13.05.2012 Shailamma D/o Ananthseena was assaulted by means of cow dung by Shabbir and Ambanna. In this connection on 15.05.2012 at 8.00 p.m. there was altercation between the complainant, Ananthseena and the accused, thereafter, accused formed themselves into unlawful assembly armed with deadly weapons like club, axe and assaulted Ananthseena consequently, he died.

4. Learned counsel for petitioners has produced the copy of the charge sheet.

5. It is alleged in the charge sheet that on 15.05.2012 at 8.00 p.m. there was altercation between the Ananthseena and CW1 and also accused. Overt-acts attributed against the accused as per the charge sheet is that accused No.1 assaulted Ananthseena by means of an axe on his head.

Accused Nos.5 and 6 assaulted the deceased by means of a club. Accused Nos.2 and 3 kicked on the stomach of the deceased. Accused Nos.2, 4 7 and 9 assaulted the deceased with hands. When charge sheet witness Nos.5 and 6 went to rescue the deceased, accused No.6 assaulted them and caused simple injury. Injured Ananthseena was admitted to the District Hospital at Raichur. Unable to recover from the injuries sustained, he died on 16.05.2012 at 5.45 p.m.. Therefore, Manvi Police have laid the charge sheet against accused Nos.1 to 10 for the offences punishable under Sections 143, 147, 148, 307, 323, 324 and 149 of Indian Penal Code.

6. It is the contention of the learned counsel for petitioners that there is a case and counter case between the accused and the complainant. Even accused No.2 has also sustained grievous injuries. Case and counter case are registered against both the complainant and accused in Crime No.75/2012. This crime number was

registered on the basis of the complaint made by Sharanamma against accused No.1 - Vishwanath who is complainant in Crime No.74/2012.

7. Admittedly, it is undisputed fact that there is case and counter case between the complainant and the accused. The overt-act attributed is against accused No.1, rest of them either they have assaulted the victims by means of a club or kicked the victim or assaulted with fist. The postmortem report discloses that deceased died due to head injury. In this case, investigation is completed and charge sheet has been filed. Petitioners are in judicial custody, it is well settled that pre-trial detention is bad in law. Investigation is completed, therefore, presence of the petitioners is not required. Therefore, considering the facts and circumstances of the case, I am of the opinion that this is a fit case to grant bail to the petitioners.

8. In the result, I pass the following

ORDER

This bail petition is allowed conditionally. Petitioner Nos.1 to 9 are granted with bail. They shall be released on bail in Crime No.74/2012 of Manvi Police Station on their executing a personal bond for a sum of Rs.25,000/- each with two sureties for the likesum to the satisfaction of the learned Civil Judge (Junior Division) and JMFC, Manvi in C.C.No.624/2012 on the following conditions.

1. The petitioners shall not tamper with the prosecution witnesses.
2. They shall not jump bail.
3. If any condition is violated, the bail entails cancellation.

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