

Rudresh and Others Vs. The State of Karnataka

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Court : Karnataka Dharwad

Decided On : Jun-05-2014

Judge : K.N. Phaneendra

Appeal No. : Criminal Petition No. 100769 of 2014 c/w Criminal Petition Nos. 100770, 100752 & 100874 of 2014

Appellant : Rudresh and Others

Respondent : The State of Karnataka

Judgement :

(Prayer: These Criminal Petitions Are Filed U/S 439(1) Of Cr.P.C. Seeking To Grant Bail To The Above Petitioners, In Savanur Police Station Crime No.197/2013 Registered On 21.12.2013 Pending Before The Civil Judge and J.M.F.C. Court Savanur, For The Offences U/S 392,395,397 Of IPC.)

Common Order:

1. Heard the learned Counsel for the petitioners and the learned Addl. State Public Prosecutor for the respondent - State. Perused the records.
2. The petitioners in these petitions, who are arrayed as accused Nos. 4, 1, (7, 8, 9) and 3 respectively, in crime No. 197/2013 registered by the Savanur police, have approached this Court for grant of bail.

3. The brief factual matrix of the case are that:

A person by name Chandulal S/o. Hindudhar Ganghi, lodged a complaint stating that, on 20.12.2013 at about 8.30 a.m., he went to Yalavigi in connection with his business and then he went to Shirahatti, Gadag and Laxmeshwar to visit his customers jewellery shops in order to sell and hand over the prepared gold ornaments/jewellaries and also to collect the outstanding dues from them. After collecting the money from them and along with the gold ingots given by the owners of some jewellery shops for pieparation of jewel]ary, he was waiting for a bus at Laxmeshwar bus stand to return to Bangalore at about 9.35 p.m. Thereafter, as he could not get the bus, he stopped a lorry and came up to Yalavigi and there, he enquired about the availability of the train to Bangalore. He came to know that the train had already gone and therefore, he came out of the railway station and saw a car coming from Lakshmeshwar side and he requested the driver to take him up to Haveri. It is also alleged that the car moved towards Haveri. After about 14 kms away from Yalavigi, the driver of the car moved towards Katcha road stating that he had some urgent work at Shirvadgi and after attending to it, they can go to Haveri. Suspecting the said driver, the complainant stopped the car and got down from the car. At the same time, the complainant also observed that two persons, who were following the said car, came in a motorcycle and talked with the driver and thereafter the car went away. The motorcyclists came to the complainant, snatched his handbag and pushed him away. The complainant fell down on the ground. Thereafter, those two persons have assaulted him and ran away with the said bag, threatening the complainant with dire consequences of killing, if he follow them.

It is further stated that the incident took place at about 11.30 pm and the complainant lost Rs.2 lakhs and 3,500 grams of gold ornaments worth Rs.90 lakhs. Therefore, he came to Yelavigi and telephoned to his son-in-law and after taking treatment, it appears, he lodged a complaint before the police. On the basis of the above said information, the police have commenced investigation.

4. The learned Addl. State Public Prosecutor submitted that the investigation is not yet completed and the antecedents of the petitioners have not yet been traced.

Therefore, it is not a fit case to enlarge the accused persons on bail. Further he contended that, there are recoveries of gold ingots and jewellerys at the instance of the petitioners. Hence, he pleaded for rejection of bail petitions, as there is prima facie materials against the accused.

5. The investigation papers, at this stage, discloses that the accused persons were arrested since 16.03.2014 on different dates and they are in judicial custody. The specific allegations made against some of the accused as per the investigation papers are that the accused No.4 - Rudresh has addicted to alcohol and sustained severe loss in his business. He requested the other accused persons to inform him, if any person comes to the jewellery shop, particularly to Srinidhi Jewellers, where the accused No. 1 - Arun was working, so that they can rob the said person and thereafter, share the robbed gold and money. In this background, it is alleged that the accused persons have hatched a conspiracy and on 20.12.2013, when the complainant visited Srinidhi Jewellers, accused No.1 - Arun (petitioner in CrI.P.No. 100770) came to know about the money and gold articles with the complainant. He informed one of the accused i.e., accused No.4 - Rudresh about the movements of the complainant. Thereafter, it appears, all the accused persons hatching a conspiracy, sent the accused persons by name Basavaraj (accused No.3), Parasuram (accused No.6), Bharamappa (accused No.7) and Mantesh (accused No.9) in order to rob the said cash and jewellery bag from the complainant. Accordingly, accused No.8 - Basavaraj went in a car and accused Nos. 7 - Bharamappa and accused No.6 - Parashuram went on a motorcycle in order to follow the complainant and rob him.

6. According to the investigation papers, the accused No.8 - Basavaraj took the complainant in his car by saying that he would leave the complainant to Haveri. As stated by the complainant, when he took the complainant in a different direction, about 14 kms away from Yalavigi i.e., at a particular place called Shirbadgi, the complainant stopped the car and got down from the said car. At that time, accused No. 6 - Parashuram and accused No. 7 - Bharamappa came to that place in a motorcycle and assaulted the complainant, snatched the bag as stated above and threatened the complainant with dire consequences and ran away from the spot. The investigation papers also disclose that, Police have arrested the accused

persons and recovered some of the gold articles and also the gold ingots from the accused persons. Accused Nos.6 and 7 were also identified by the complainant later during investigation.

7. On perusal of the above said factual aspects, the allegations made against accused Nos. 6, 7 and 8 are altogether different from, that of the allegations made against accused Nos. 4, 1, 9 and 3 in this particular case. Accused Nos. 4, 1, 9 and 3 are alleged to have hatched a conspiracy at the instance of accused No.4 and accused No.1 acted as an informant about the movements of the complainant, and according to the directions of accused No.4, other accused persons particularly, accused Nos. 6, 7 and 8 followed the complainant and robbed him. The main and serious allegations are against the accused Nos. 6, 7 and 8, who appears to be directly involved in the case and who had robbed the complainant on that particular day.

8. It is the case of the police that, on that particular day, the complainant has actually seen these accused Nos. 6, 7 and 8 on the spot and accused Nos. 6 and 7 are the persons who actually robbed the complainant. Insofar as other accused persons are concerned, i.e., accused Nos. 4, 1, 9 and 3, they have hatched a conspiracy. The police have recovered some gold articles and ingot from the accused persons. But in my opinion, at this stage, mere recovery is not sufficient to draw inference of guilt of the accused, unless during the course of trial, the prosecution proves that these ornaments were with the complainant and these ornaments were actually the subject matter of robbery by accused Nos. 6, 7 and 8. The prosecution also has to prove during the course of the trial, the role of accused Nos. 4, 1, 9 and 3, i.e., whether they are conspirators in hatching a conspiracy. What transpired between these accused persons with accused No.6, 7 and 8 cannot, at this stage, be imagined by the Court because of the simple reason that the conspiracy appears to have been cropped up only on the basis of the voluntary statement of the accused persons. The police have to collect more evidence in order to establish the conspiracy between these accused persons. When there is no material at this stage to show that accused No A. 1, 9 and 3 are directly participated in the commission of offence, in my opinion, their bail petitions cannot be rejected only for the reason of recovery. They have already been

arrested by the police and they have been in judicial custody for more than 2 y2 months and by this time, the police must have collected the information about the previous antecedents and conduct of these persons. But nothing is there to show that these persons are habitual offenders and having committed any other offence so as to reject their bail petition. The offence alleged are also not compulsorily punishable, with imprisonment for life or death.

9. However, as rightly contended by the learned Addl. State Public Prosecutor that accused Nos. 7 and 8 are the persons who came directly in contact with the complainant and complainant has rightly seen them on the date of incident and their presence in the custody is required either for the purpose of identification or for any other purpose by the police, I am of the opinion, that the bail petitions insofar as accused Nos. 7 and 8, who are petitioners in Crl.P.No. 100752/2014 deserves to be rejected.

10. With these observations, following order is passed:

ORDER

Criminal Petitions No. 100769/2014, 100770/2014 and 100874/2014 are hereby allowed.

Criminal Petition No. 100752/2014 is partly allowed granting bail only insofar as accused No.9 - Mantesh is concerned and rejecting bail insofar as accused No.7 - Bharamappa and accused No.8 - Basavaraj are concerned.

The petitioners who are granted with bail as stated above shall be released on bail on executing a personal bond for a sum of Rs. 1,00,000/- (Rupees One Lakh Only) each with two solvent sureties for the likesum to the satisfaction of the Committal Court.

The petitioners who are granted with bail, shall not hamper the investigation or tamper the prosecution witnesses and they shall make themselves available to the Investigating Officer as and when required for the purpose of investigation/interrogation etc.

The petitioners who are granted with bail shall also mark their attendance once in a week on every Sunday between 10.00 a.m and 5.00 pm till the filing of the charge sheet or for the period of two months, whichever is earlier.

The petitioners who are granted with bail shall not leave the jurisdiction of the trial Court without prior permission till the case registered against them is disposed of.

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