

Mohammed Aleemulla Vs. The State Of Karnataka

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Court : Karnataka

Decided On : Oct-17-2014

Judge : A.V.Chandrashekara

Appeal No. : Criminal Petition No.5409 of 2014

Appellant : Mohammed Aleemulla

Respondent : The State Of Karnataka

Judgement :

(Prayer: Crl.P Filed U/S.439 Cr.P.C By The Advocate For The Petitioner Praying That This Hon'ble Court May Be Pleased To Enlarge The Petr. On Bail In Crime No.91/14 Of Banashankari P.S., Bangalore City, For The Offences P/U/S 120(B), 143, 147, 148, 149, 302 Of Ipc And Etc.)

1. This petition is filed under Section 439 of Cr.P.C. seeking regular bail in respect of a case registered against the petitioner in Cr.No.91/2014 by Banashankari Police Statuib, Bangalore, for the offences punishable under Sections 143, 147, 148, 149, 201, 302 of IPC.
2. Bail application filed on behalf of the petitioner has already been dismissed by the Fast Tract II, Bangalore City on 25.7.2014 in Crl.Misc.No.3698/2014.
3. The petitioner is in judicial custody from 3.4.2014 on which day he was taken into custody by the Police. The main allegation against the petitioner is that he had

joined accused No.1-Thoparaju in murdering his friend Kumar @ Appu at 3.45 p.m. on 23.3.2014 in the house of accused No.1. It is alleged that this petitioner stabbed deceased on his neck with knife. It is further alleged that Sunitha, wife of accused No.1 also joined these people in murdering Kumar @ Appu. First information was lodged by one Ganesh Prasad resident of Cottonpet, Bangalore to the jurisdictional police.

4. Learned Government Pleader has vehemently opposed the bail application contending that prima facie case is made out against his petitioner in regard to his involvement in the incident in question and that incriminating materials like blood stained cloth and knife stated to have been used by the accused to murder Kumar @ Appu have been recovered and hence, he request the Court to dismiss the petition.

5. Perused the records.

6. As could be seen from the first information, no reference is made in regard to the name of this petitioner. The statement of PSI, Banashankari Police Station has been recorded on 23.3.2014, in which he has given statement about Ganesh Prasad and Nirmala having come to police station on 23.3.2014 and informing murder of Kumar @ Appu in the house of Thoparaju. Even in the statement recorded on 23.3.2014, the name of this petitioner is not found.

7. What is argued by the learned counsel for the petitioner is that the statement of eye witnesses Ganesh and Nirmala recorded on 2.4.2014 does not disclose the name of this petitioner as one of the assailant. Further, it is argued that there is inordinate delay in recording the statement of these witnesses, who are stated to be eyewitnesses. There is lot of force in the submission of the learned counsel for the petitioner .

8. What is argued by the learned Government Pleader is that this petitioner has another name namely Kaleem and therefore his name is shown as Mohammed Aleemulla @ Khaleem in the statement of these witnesses.

9. The learned counsel for the petitioner submitted the certificate issued by Quwathul Islam Pre- University College in which he was studying to show that his name Mohammad Allemulla and not Kalim

10. Whether he was also called as Khaleem is a matter of evidence. Suffice to state that the name of this petitioner is not found in first information, the statement recorded by the PSI, Banashankari Police on 23.3.2014. The name of this petitioner is found only in the statement recorded at a later point of time i.e., after lapse of 9 days from the date of incident. Whatever observation made by this Court is only for the limited purpose of disposing of the matter and this shall not influence the learned Judge trying the matter on merits. The apprehension of the learned Government Pleader could be suitably met by imposing certain conditions

11. In this view of the matter, petition is allowed and bail is granted to the petitioner, subject to the following conditions:-

(i) Petitioner shall be released on bail on his executing a personal bond for a sum of Rs.1,00,000/- with one surety, for the likesum to the satisfaction of the learned Sessions Judge.

(ii) Petitioner shall not tamper or attempt to tamper any of the prosecution witnesses.

(iii) Petitioner shall not hold out threats to the prosecution witnesses or lure them in any manner.

(iv) Petitioner shall not involve himself in any criminal activities.

(v) Petitioner shall mark attendance at the Jurisdictional Police Station on every Sunday between 9 a.m. to 5 p.m. for a period of six months. This fact shall be informed to the Sessions Court by the concerned Police Station.

(vi) Petitioner shall attend the Sessions Court regularly on all dates of hearing and shall co-operate with the learned Sessions Judge to hold the trial.