

Nafeeza and Another Vs. State of Karnataka

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Court : Karnataka

Decided On : Sep-26-2014

Judge : R.B. Budihal

Appeal No. : Criminal Petition No.5642 of 2014

Appellant : Nafeeza and Another

Respondent : State of Karnataka

Judgement :

(Prayer: This Criminal Petition is filed under Section 439 of the Cr.P.C. praying to enlarge the petitioners on bail in Cr. No.1072/2014 of Madivala P.S., Bangalore City, for the offences P/U/S 341, 342, 323, 324, 326, 370, 374 read with Section 34 of IPC and Section 23 of Juvenile Justice Act and Section 14 of Child Labour Prohibition Regulation Act.)

1. This petition is filed by petitioners-accused Nos.1 and 2 under Section 439 of Cr.P.C. seeking their release on bail of the alleged offences punishable under Sections 341, 342, 323, 324, 326, 370, 374 r/w Section 34 of IPC and also under Section 23 of the Juvenile Justice Act and Section 14 of the Child Labour (Prohibition and Regulation) Act, 1986 registered in respondent-police station Crime No.1072/2014.

2. Heard the arguments of the learned counsel for the petitioners-accused Nos.1 and 2 and also the learned Government Pleader appearing for the respondent-

State.

3. Learned senior counsel for the petitioners during the course of his arguments has submitted that petitioner No.1 is from Darjeeling and victim girl Malathi is also from Darjeeling. Victim girl was often suffering from epilepsy and sometimes she even used to cause injuries to herself. Because of this reason, to get treatment to her, petitioners took her to NIMHANS Hospital and admitted her in the hospital and as advised by the Doctor, petitioners have purchased medicine for her and also have deposited an amount of Rs.15,000/-. Further, as advised by the Doctor that she has to be shifted to Blossom Hospital for proper treatment, she was shifted to the said hospital. When things stood thus, complainant has visited the said hospital and on seeing the girl, she has filed the complaint making false allegations that petitioners have assaulted the victim girl and caused injuries to her and there are also marks on her upper and lower limbs for having tied with rope and also bleeding injuries. Learned senior counsel has also submitted that the petitioners have never caused such ill-treatment and harassment to her, on the contrary, on humanitarian grounds took the girl to the hospital to get the treatment. Both the petitioners are having business and there is nobody in the family to attend to their business. The alleged offences are not exclusively punishable with death or imprisonment for life. Now the victim girl is alright and she has been sent to the remand home and there is nobody to take care of her.. Hence, by imposing reasonable conditions, petitioners may be enlarged on bail.

4. As against this, learned Government Pleader during the course of his arguments has submitted that looking to the complaint averments and also statement of witnesses recorded by the Investigating Officer during investigation, they prima facie show that these petitioners had kept the girl as maid servant since one month in their house and they gave ill-treatment and harassment to her and when she became unconscious she was shifted to the hospital. He has submitted that the prosecution material at this stage shows the involvement of both the petitioners in committing the alleged offences and the girl is aged only 13 years and the matter is still under investigation. Hence, at this stage, petitioners are not entitled to be granted with bail.

5. I have perused the averments made in the bail petition, FIR, complaint and other materials collected by Investigating Officer during investigation and produced by the petitioners along with the petition.

6. Looking to the complaint averments it is seen that one Smt.Meenakshi is the complainant in this case. In the complaint it is alleged that when she visited the Blossom hospital she has seen Malathi in ICU unit. She was in an unconscious state and was taking treatment. The complainant has seen marks on her upper and lower limbs of having tied her limbs with a rope and there were also bleeding injuries to the fingers, elbow, lower limbs and also to the feet. The materials also show that she has been assaulted with a sharp weapon. Hence, she has requested to take action against the petitioners alleging that without leaving the victim girl outside the house, petitioners have assaulted her and have given both physical and mental ill-treatment to her and thereafter, on admitting her to the hospital, they ran away from the hospital.

7. Perusing the complaint averments and also witnesses whose statements have been recorded by the Investigating Officer during investigation, they prima facie shows the involvement of the petitioners in committing the alleged offences. It is contended by the petitioners that they are ready to abide by any conditions to be imposed by the Court. So far as petitioner No.2 is concerned, as the matter is still under investigation and there is prima facie material at this stage, petitioner No.2 is not entitled to be granted bail. However, after completion of investigation and filing of charge sheet petitioner No.2 can renew his request. So far as petitioner No.1 is concerned, as her case falls under the proviso of Section 437 of Cr.P.C., and she being a woman, I am of the opinion that she can be admitted to bail.

8. Accordingly, in respect of petitioner No.2, for the present, petition is rejected. Petition in respect of petitioner No.1 is allowed. Petitioner No.1 is ordered to be released on bail of the offences punishable under Sections 341, 342, 323, 324, 326, 370, 374 r/w Section 34 of IPC and also under Section 23 of the Juvenile Justice Act and Section 14 of the Child Labour (Prohibition and Regulation) Act, 1986 registered in respondent-police station Crime No.1072/2014, subject to following conditions:-

(i) Petitioner No.1 shall execute a personal bond for a sum of Rs.50,000/- and furnish one surety for the like sum to the satisfaction of concerned Court.

(ii) She shall not intimidate or tamper with prosecution witnesses directly or indirectly.

(iii) She shall appear before the concerned Court regularly.

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