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Court : Karnataka

Decided On : Jul-23-2014

Judge : R.B. Budihal

Appeal No. : Criminal Petition No.3585 of 2014

Appellant : Mohammed Harfath and Another

Respondent : State

Judgement :

(Prayer: This Crl.P Filed U/S.439 Cr.P.C Praying To Enlarge The Petitioner On Bail In Cr. No. 156/2014 Of D.J.Halli P.S., Bangalore City, Which Is Registered For The Offence P/U/S 370(5),370(A),374,344 Of Ipc And U/S 26,23 Of Juvenile Justice Act And U/S 14 Of Child Labour (Prohibition And Regulation) Act, 1986 And U/S 16,17,18 Of Bonded Labour System (Abolition) Act, 1976 And Right To Education Act.)

1. This is the petition filed by the petitioners/accused Nos.1 and 2 under Section 439 of Cr.P.C seeking their release on bail, for the offences punishable under Sections 370(5), 370(A), 374, 344 of IPC and under Section 26 and 23 of the Juvenile Justice Act and under Section 14 of Child Labour (Prohibition and Regulation) Act and under Section 16, 17 and 18 of Bonded Labour System (Abolition) Act, 1976 and Right to Education Act, registered in respondent police Station crime No. 156/2014.

2. Heard the arguments of the learned counsel appearing for the petitioners/accused Nos. 1 and 2 also the learned HCGP for the respondent-State.
3. Learned counsel for the petitioners/accused Nos. 1 and 2 during the course of his arguments submitted that the petitioners are not the owners of the factory and they are also the co-workers working along with the boys. He made the submission that so far as the present petitioners are concerned there are no allegations that they have committed the alleged offences, he submitted that the prosecution materials go to show that when the raiding party enquired with the present petitioners that who is the owner of the factory, they told that he has gone outside for making the purchase of raw-materials. Learned counsel further made the submission that the alleged offences are not exclusively punishable with death or imprisonment for life. He submitted that the investigation is nearing completion and the petitioners/accused Nos. 1 and 2 are innocent and they have been falsely implicated in the case and they are ready to abide by any reasonable conditions to be imposed by this Court. Hence, learned counsel made the submission to allow the petitions and to grant anticipatory and regular bail to the respective petitioners.
4. As against this, the learned HCGP during the course of his arguments submitted that the boys, who were below the age of 14 were brought from Bihar by the present petitioners by making the assurance to the parents of the said boys that they will pay handsome salary to them and they have made the payments of Rs.5,000/- to 6,000/- to the parents of the said boys. He also made the submission that said boys were engaged in preparing the bags and they were confined in the factory place and not allowed to go outside, and once in a week they will be taken to the temples and mosques to offer prayers and they are threatened, if they made attempts to run away, then they will kill them. The learned HCGP further made the submission that there is no hygienic place for the stay of the said boys and no proper food is supplied to them, the petitioners are extracting the work from the boys from morning till late night and the boys are working like a bonded labours. He also made the submission that investigation of the case is still going on, Investigating Officer has to collect some more material and to file charge sheet in the matter and hence, petitioners/accused Nos. 1 and 2 are not entitled to be granted with bail.

5. I have perused the averments made in the bail petitions, complaint, FIR, order passed by the lower Court on the bail application and also the other materials produced in the case by the learned counsel for the petitioners. Looking to the averments made in the complaint they clearly go to show that the present petitioners; who are accused Nos. 1 and 2 are running the factory. Petitioner No.2/Mohammed Nizar @ Mister is owner of the factory and petitioner No. 1/Mohammed Harfath is the manager of the factory. The materials also go to show that when the raiding party enquired with the children, they stated that they are from Bihar and the petitioners by paying Rs.5,000/- to 6,000/- to their parents and giving the assurance that they will be paid handsome salary, brought them to the said place and they have also stated that from 9.00 a.m. to 12.00 p.m. petitioners are extracting the work from them. There is no toilet facility and they have to sleep in the place, where they are working. They were not provided with the basic facilities and they were not sent to the school for study and petitioners treated them like bonded labours. As submitted by the learned HCGP that the matters are still under investigation and also perusing the order of this Court dated 08.08.2011 passed in CrI.P.4135/2011 produced in the case by the petitioners. I am of the opinion that when serious allegations are made against the petitioners and when the investigation of the case is still going on, without expressing any opinion on the entitlement or otherwise of the petitioners to be released on bail, at this stage it is not proper for this Court to allow the petitions and to release the petitioners on bail.

Immediately after completion of investigation and after filing of the charge sheet, the petitioners are at liberty to renew their request.

With these observations, the bail petition is rejected.

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