

Tabreez Vs. State of Karnataka

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Court : Karnataka

Decided On : Jul-22-2014

Judge : R.B. Budihal

Appeal No. : Criminal Petition No.3963 of 2014

Appellant : Tabreez

Respondent : State of Karnataka

Judgement :

(Prayer: This Criminal Petition is filed under Section 439 of the Cr.P.C. praying to enlarge the petitioner on bail in Cr. No.79/2013 of Sakkarepatna P.S., Chickmagalur District for the offences punishable under Sections 302 and 201 read with Section 149 of IPC.)

1. This petition is filed by the petitioner-accused No.6 under Section 439 of Cr.P.C. seeking his release on bail of the offences punishable under Sections 302 and 201 read with Section 149 of IPC registered in respondent Police Station Crime No.79/2013.

2. I have heard the learned Counsel appearing for the petitioner-accused No.6 and the learned High Court Government Pleader appearing for the respondent-State.

3. Learned Counsel appearing for the petitioner, during the course of the arguments, submitted that there are no direct witnesses to the alleged incident and

the case of the prosecution rests on the circumstantial evidence. The learned Counsel also submitted that accused No.7 against whom similar allegations are made had approached this Court and this Court, after considering the merits of case, has ultimately allowed the petition in respect of accused No.7 and granted bail to him. The learned Counsel also submitted that the petitioner accused No.6 is also standing on the same footing with that of accused No.7. Hence, on the ground of parity, the present petitioner is entitled to be released on bail.

4. As against this, learned High Court Government Pleader appearing for the respondent-State, during the course of the arguments, submitted that looking to the allegations as against the petitioner, he has assaulted the deceased with club. Therefore, he cannot claim the ground of parity as considered in case of accused No.7. Hence, the petitioner is not entitled to be released on bail.

5. I have perused the averments made in the bail petition, FIR, complaint and the other materials on record produced by the learned Counsel for the petitioner.

6. The materials goes to show that accused No.1 was having illicit connection with one Sharadamma and the deceased was also often talking to the said Sharadamma. Due to that reason, accused No.1 suspected the deceased and his relationship with Sharadamma. The materials also go to show that accused No.1 conspired with the other accused persons to eliminate the deceased and in that connection, he had contacted accused No.2, who got the other accused persons. Accused No.1 also agreed to give Rs.25,000/- to each of accused Nos.5 to 7. The other materials collected during investigation go to show that accused No.1 along with another accused Nalin came to the spot and accused Krishnamurthy brought the deceased on his motor cycle to the place of incident and all the other accused persons gathered at the said place and assaulted the deceased and committed his murder. So far as the petitioner is concerned, the allegation is that he has also assaulted the deceased with club and thereby, caused injuries to the deceased. The investigating officer has recorded the voluntary statement of the petitioner during investigation and seized the weapons used in committing the alleged offence.

7. I have also perused the order passed by this Court in respect of accused No.7 is concerned. Looking to the allegations made in the complaint and the other materials collected during investigation, they are not exactly one and the same. So far as the petitioner, there is an allegation that he has also assaulted the deceased with club. Therefore, looking to the materials on record, the ground of parity is not made applicable to the petitioner. The prosecution has placed prima facie material to show the involvement of the petitioner in the commission of the alleged offence. Hence, the petitioner is not entitled to be granted with bail.

Accordingly, the petition is rejected.

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