

Puttamadamma Vs. The State of Karnataka

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Court : Karnataka

Decided On : Jul-19-2016

Judge : K.N. Phaneendra

Appeal No. : Criminal Petition No. 4776 of 2016

Appellant : Puttamadamma

Respondent : The State of Karnataka

Judgement :

(Prayer: This Criminal Petition is filed under Section 438 of Cr.P.C. praying to enlarge the petitioner on bail in the event of her arrest in CR.No.41/2016 of Kuderu Police Station, Chamarajanagara, for the offence P/U/S 379 of IPC and Sections 4(1), 4(1)(A), 21(1), 21(3) and 21(4) of M.M.R.D.Act and U/S 42 and 44 of K.M.M.C.R. Rules.)

1. Heard the learned counsel for the petitioner and the learned High Court Government Pleader for respondent - State.

2. It is not that anticipatory bail should not be granted in any case, but in exceptional cases, the Court can exercise judicious discretion with circumspection. The Court has to see the facts and circumstances of each case to come to the conclusion that whether such discretion can be exercised or not. In this regard, it is worth to note here the decision of the Hon'ble Apex Court in the case of Siddharam Satlingappa Mhetre Vs. State of Maharashtra reported in (2011) 1 SCC

694, wherein the Hon'ble Apex Court has observed in the following manner:

"While considering the anticipatory bail petitions, the Court has to bear in mind certain parameters mainly the nature and gravity of accusation and exact role of the accused must be properly comprehended before the arrest is made by the police. The antecedents of the applicants including the fact as to whether the accused has previously undergone any imprisonment or he is a regular offender and the accused likelihood of repeating the similar offences and whether he is available for the Court for further proceedings regularly.

It is also said by the Hon'ble Apex Court that arrest should be the last option and it should be restricted to those exceptional cases where arresting the accused is imperative in the facts and circumstances of that case. The Court must carefully examine the entire materials available on record and particularly the allegations which have been directly attributed to the accused and those allegations are corroborated by other material and circumstances on record."

3. The allegations as could be seen from the first information report is that the petitioner was involved in excavating sand and the police in connection with the same have seized the incriminating materials on the spot itself i.e., sand which was purported to be transported and also the vehicle in which the sand proposed to be transported and thereafter ascertaining who are all the persons involved in the case, the police have registered a case.

4. Looking to the above said facts and circumstances of the case, it reveals that the investigation with regard to recovery of the vehicle and the material object has already been done and no previous antecedents have been alleged against the petitioner. Further added to that, the offences are not severely punishable with death or life imprisonment. Except provision under Section 379 of IPC, the other provisions invoked are not serious enough.

5. Under the above said circumstances, by means of imposing stringent conditions, the anticipatory bail petition deserves to be allowed. Hence, the following:

ORDER

The petition is allowed. The petitioner is ordered to be released on bail in the event of his arrest in connection with Cr.No.41/2016 for the offence punishable under Sections 379 of IPC and Section 4(1), 4(1) (A), 21(1), 21(3) and 21(4) of Mines and Minerals Regulation of Development (MMRD) Act, 1957 and Section 42 and 44 of K.M.M.C.R. Rules, subject to the following conditions:

- i) The petitioner shall execute a personal bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one surety for the likesum to the satisfaction of the Investigating Officer;
- ii) The petitioner shall surrender himself before the Investigating Officer within a week from the date of receipt of the copy of this order;
- iii) The petitioner shall not indulge in hampering the investigation or tampering the prosecution witnesses;
- iv) The petitioner shall appear before the Investigating Officer as and when required for the purpose of investigation.
- v) The petitioner shall mark his attendance once in a week on every Sunday between 10.00 a.m. to 5.00 p.m. before the Investigating Officer till the filing of the charge sheet or for a period of two months whichever is earlier.

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