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**Devappa and Others Vs. The State of Karnataka (Through Excise Jaalahalli Police Station) Represented by Additional State Public Prosecutor**

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**SooperKanoon Citation** : sooperkanoon.com/1192682

**Court** : Karnataka Kalaburagi

**Decided On :** Mar-14-2017

**Judge** : B.A. Patil

**Appeal No.** : Criminal Petition No. 200305 of 2017

**Appellant** : Devappa and Others

**Respondent** : The State of Karnataka (Through Excise Jaalahalli Police Station) Represented by Additional State Public Prosecutor

**Advocate for Pet/Ap.** : Sri. Ishwar Raj S. Chowdapur

**Judgement** :

(Prayer: This Criminal Petition is filed under Section 438 of Cr.P.C., praying to direct the respondent-Police to release the petitioners on bail in the event of their arrest in Crime No.127/2016 of Jaalahalli Police Station, which is registered for the offences punishable under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 and also for the offences punishable under Sections 147, 506, 509, 504, 447, 354 r/w Section 149 of IPC.)

1. This petition is filed by the petitioners/accused Nos.1 to 11 under Section 438 of Cr.P.C., seeking anticipatory bail in Crime No.127/2016 of Jalhalli Police Station, Raichur, registered for the offences punishable under Sections 147, 506, 509, 504,

447, 354 r/w Section 149 of IPC and also for the offences punishable under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. Brief facts leading to filing of the complaint are that, the complainant filed the complaint on 20.12.2016 alleging that the victim was studying in 9th standard. Since five to six months prior to the alleged incident, accused No.1-Devappa S/o Timmanna and accused No.2-Devappa S/o Nandappa used to tease the victim while she was going to school and coming back to home. On 05.12.2016 at about 10.30 p.m., when the victim was sleeping, accused No.1-Devappa S/o Timmanna came and pulled her leg, at that time, she made hue and cry. On hearing the same, when father of the victim got up and saw, accused No.1 was there and by seeing him, he ran away from the said place. On 06.12.2016 in the morning hours, they went to the house of accused No.1 to inform about the incident. At that time, accused/petitioners threatened the complainant not to file complaint before the police. As such, she did not file complaint and after ten days, she went to the police station and filed complaint and on the basis of the same, a case was registered.

3. Heard the arguments of the learned counsel for the petitioners and learned High Court Government Pleader appearing for respondent-State.

4. Sri Ishwar Raj S. Chowdapur, learned counsel for the petitioners would contend that petitioners are innocents and they have not committed any offence alleged against them. Due to the strained relationship between the parties as there was dispute with regard to the pathway, they have been falsely implicated in this case. He would also contend that there is no direct allegation against accused Nos.3 to 11 with regard to offence under the provisions of Protection of Children from Sexual Offences Act, 2012. Even insofar as accused Nos.1 and 2 provisions of Sections 8 and 12 of the Act are not attracted. He would further contend that if the petitioners are apprehended and detained in jail, they would be harassed and it would cause inconvenience to them. He would also submit that petitioners have got both movable and immovable properties, therefore, there is no chance of they being absconded. He would further contend that if the petitioners are released on bail, they are ready to abide by the conditions to be imposed by this Court and

they are ready to offer sureties. On these grounds, he prays for allowing the petition.

5. On the contrary, learned High Court Government Pleader appearing for the respondent-State has vehemently contended that there is direct evidence and allegation in the complaint insofar as accused Nos.2 and 3 are concerned. They used to tease the minor girl while she was moving out side the house and while she was proceeding to school. He would also contend that the other petitioners have threatened the complainant not to file complaint as such, there is delay in filing the complaint. At this juncture, if the petitioners are released on bail, they may tamper with the prosecution witnesses, they may abscond and they may not be available for trial. On these grounds, he prays for dismissal of the petition.

6. I have gone through the contents of the complaint and I have heard the submissions made by the learned counsel appearing for both the parties.

7. On going through the contents of the complaint, it would indicate that accused Nos.1 and 2 used to tease minor victim and thereby, they have committed the offences as contemplated under the provisions of Protection of Children from Sexual Offences Act, 2012 which is considered to be serious offence against a minor girl. The only allegation made against accused Nos.3 to 11 is that when the complainant went to the house of accused No.1, they have threatened the complainant not to file complaint. Except that there are no other allegations. Therefore, I am of the considered opinion that accused Nos.3 to 11 are entitled for bail. Hence, I feel that if accused Nos.3 to 11 are released on bail by imposing stringent conditions, it would safeguard the interest of the prosecution and it would meet the ends of justice.

8. Keeping in view the above facts and circumstances of the case, the petition in respect of accused Nos.1 and 2 is dismissed and the petition in respect of accused Nos.3 to 11 is allowed.

The respondent-Police are hereby directed to release the accused Nos.3 to 11 on bail, in the event of their arrest, for the above said offences, subject to the following conditions:-

i. Petitioner Nos.3 to 11/accused Nos.3 to 11 shall execute personal bonds for a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) each with two solvent sureties each for the likesum to the satisfaction of the arresting authority.

ii. Petitioner Nos.3 to 11/accused Nos.3 to 11 shall not tamper with any of the prosecution witnesses directly or indirectly.

iii. Petitioner Nos.3 to 11/accused Nos.3 to 11 shall appear before the investigating officer as and when required and co- operate for investigation.

iv. Petitioner Nos.3 to 11/accused Nos.3 to 11 shall mark their attendance before the Investigating Officer once in fortnight till the charge sheet is filed;

v. Petitioner Nos.3 to 11/accused Nos.3 to 11 shall appear before the jurisdictional Court and execute personal bonds, surety bonds and furnish surety within thirty days from the date of receipt of certified copy of this order.

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