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Vijesh M vs State of Karnataka

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Court : Karnataka

Decided On : Mar-26-2024

Judge : S Vishwajith Shetty

Appeal No. : CRL.P/1414/2024

Appellant : Vijesh M

Respondent : State of Karnataka

Judgement :

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF MARCH, 2024 BEFORE THE HON'BLE MR JUSTICE S VISHWAJITH SHETTY CRIMINAL PETITION NO. 1414 OF 2024 BETWEEN: VIJESH M S/O RAMU PARVA AGED ABOUT 23 YEARS R/AT MARAKATH HOUSE KAIMANA VILLAGE, KADABA TALUK DHAKSHINA KANNADA KARNATAKA - 574 210. PETITIONER (BY SRI K.L. SRINIVAS, ADV., FOR SRI PAWADEGOWDA, ADV.) AND: STATE OF KARNATAKA BY SHO, BELLARE PS SULLIA CIRCLE, D.K.

Digitally signed KARNATAKA - 574 210 by B A (REPRESENTED BY SPP KRISHNA KUMAR HIGH COURT BUILDING Location: HIGH BANGALORE - 560 001) COURT OF KARNATAKA RESPONDENT (BY SRI RANGASWAMY R, HCGP)

THIS CRL.P FILED U/S 439 CR.PC PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.49/2022 OF BELLARE P.S., D.K., FOR THE OFFENCE P/U/S 302, 341, 212 R/W 34 OF IPC ON THE FILE OF THE V ADDL. DISTRICT AND SESSIONS JUDGE D.K., MANGALURU SITTING AT PUTTUR D.K. IN S.C.NO.5014/2023.THE C/c V ADDL. DISTRICT AND SESSIONS JUDGE, D.K., MANGALURU SITTING AT PUTTUR, D.K., HAS DISMISSED THE BAIL PETITION ON 27.02.2023 IN S.C.NO.5015/2023. -2-

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. Accused No.5 in S.C.No.5014/2023 pending before the

Court of V Addl. District & Sessions Judge, D.K., Mangaluru, sitting at Puttur, arising out of Crime No.49/2022 registered by Bellare Police Station for the offences punishable under Sections 302, 341, 212 & 34 IPC, is before this Court seeking regular bail.

2. On the complaint of one Sri Naveen Kumar, S/o Belyappa

Mulya, Bellare police have registered FIR in Crime No.49/2022 for the offences punishable under Sections 302, 34 IPC against one Kishore Pujari and three unknown persons.

3. In the complaint, it is averred that the complainant and

deceased Charan Raj S/o Balakrishna Rai are friends. Father-in- law of Charan Raj was preparing for opening a new medical shop at Perlampadi of Kolthige

village. The complainant was allegedly assisting Charan Raj in this regard. On 04.06.2022 at about 11.00 a.m., complainant and deceased Charan Raj had gone to the shop at Perlampadi in a car bearing registration No.KA-19-MF-1185. At about 4.15 p.m., when the complainant

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was inside the shop, he saw three unknown persons assaulting Charan Raj with Talwar and rods. When he came out and tried to interfere, accused no.1 - Kishore Pujari abused him and threatened him with dire consequences. Thereafter, all the accused persons had left the spot in the motor cycle in which they had arrived. Charan Raj had died at the spot.

4. The complainant had stated in the complaint that he

would be able to identify the accused persons who had assaulted Charan Raj. He also has stated that Charan Raj was an accused in the murder case of one Karthik, and therefore, Kishore Pujari who was the friend of Karthik had ill-will against Charan Raj, and therefore, the crime was committed.

5. Based on the complaint, FIR was registered in Crime

No.49/2022 initially against Kishore Pujari and three unknown persons. During the course of investigation, accused were arrested. Investigation is completed and charge sheet has been filed totally against seven accused persons for the aforesaid offences. Petitioner is arrayed as accused No.5 in the charge sheet. Bail application filed by him before the Trial Court in

-4- Crl.Misc.No.5015/2023 was dismissed on 27.02.2023. Therefore, he is before this Court.

6. Learned counsel for the petitioner submits that accused

Nos.1 and 2 have been granted regular bail by this Court in Crl.P.No.7349/2023 and accused Nos.3, 5 and 6 have been granted regular bail by this Court in Crl.P.No.6373/2023. He submits that there is no allegation as against petitioner about assaulting the deceased. The assailants have already been granted regular

bail by this Court. Accordingly, he prays to allow the petition.

7. Per contra, learned HCGP has opposed the petition. He submits that petitioner has actively participated in the incident in question and accordingly, he prays to dismiss the petition.

8. The first informant is the eye witness to the incident in

question and according to him, accused No.1 Kishore Pujari and three others came to the spot of incident and at the instigation of Kishore Pujari, three persons had assaulted the deceased. After completion of investigation, charge sheet was filed as against seven persons. In the charge sheet, there is no allegation as against the petitioner herein about assaulting the

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deceased. The persons, who allegedly have assaulted the deceased have been already granted regular bail by this Court in Crl.P.No.7349/2023 and Crl.P.No.6373/2023. It is not in dispute that the petitioner has no criminal antecedents. He is in custody from 05.06.2022. Under the circumstances, I am of the opinion that the prayer made by the petitioner for grant of regular bail is required to answered affirmatively. Accordingly, the following order:

9. The petition is allowed. The petitioner is directed to be

enlarged on bail in S.C.No.5014/2023 pending before the Court of V Addl. District & Sessions Judge, D.K., Mangaluru, sitting at Puttur, arising out of Crime No.49/2022 registered by Bellare Police Station for the offences punishable under Sections 302, 341, 212 & 34 IPC subject to the following conditions: a) Petitioner shall execute personal bond for a sum of Rs.1,00,000/- with two sureties for the likesum, to the satisfaction of the jurisdictional Court; b) The petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons; -6-

c) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses; d) The petitioner shall not involve in similar

offences in future; e) The petitioner shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against him is disposed off.

SD/- JUDGE DN

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