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Sri Mallesh vs State by

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Court : Karnataka

Decided On : Mar-28-2024

Judge : Rajendra Badamikar

Appeal No. : CRL.P/2007/2024

Appellant : Sri Mallesh

Respondent : State by

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF MARCH, 2024 BEFORE THE HON'BLE MR JUSTICE RAJENDRA BADAMIKAR CRIMINAL PETITION NO. 2007 OF 2024 (438) BETWEEN: SRI. MALLESH, SON OF KEMPE GOWDA, AGED ABOUT 61 YEARS, R/AT KEERANAHALLI VILLAGE, PERIYAPATNA TALUK, MYOSRE DISTRICT, PIN CODE - 571 107. PETITIONER (BY SRI. SIDDAMALLAPPA P.M., ADVOCATE) AND:

Digitally STATE BYsigned by PERIYAPATNA POLICE STATION.SOW

D MYSORE DISTRICT, Location:

High REPRSENTED BY SPP,Court of GOVERNMENT OF KARNAT

BANGALORE - 560 001. RESPONDENT (BY SRI. K. NAGESHWARAPPA, HCGP) THIS CRL.P IS FILED U/S.438 OF CR.P.C PRAYING TO ENLARGE THE PETITIONER ON BAIL IN THE EVENT OF HIS ARREST IN CR.NO.58/2023 REGISTERED BY PERIYAPATNA -2- P.S., MYSURU DISTRICT FOR THE OFFENCE P/U/S 448, 436 AND 427 OF IPC AND ETC. THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner has filed this petition under Section 438 of Cr.P.C. seeking Anticipatory Bail in the event of his arrest in Periyapatna Police Station, Crime No.58/2023 registered for the offences punishable under Sections 448, 436, 427 of IPC, pending on the file of 8th Additional District and Sessions Judge, Mysore sitting at Hunsur.

2. The Brief allegation of the prosecution discloses

that the daughter of the complainant was given in marriage to the son of petitioner about 10 years back and the petitioner used to pick up quarrel with his son as well as daughter-in-law and asked them to vacate his house. It is further alleged that 15 days prior to the alleged incident, the complainant approached the petitioner and questioned him as to why he was interested in driving her

-3- daughter and son-in-law from the house. Accordingly, to the prosecution on 11.03.2023 morning at 9.45 pm, the petitioner went to Periyapatna to work in the hotel and on that day she was not able return and she stayed in the

hotel itself. On 12.03.2023 after completing the work evening at 7:00 P.M, she returned to her village and found that the door lock of her house was broken and the household articles were shattered as well as some of them were set on fine. She was shocked and on enquiry with the neighbour it revealed that on 11.03.202, the petitioner was found moving around the house and hence suspecting the involvement of the petitioner a complaint was lodged. On the basis of the

complaint, FIR came to be registered and the petitioner apprehending his arrest approached the learned VIII Addl. Sessions Judge Mysore sitting at Hunsur, and the learned Session Judge has rejected the bail petition. Hence, the petitioner is before this Court.

3. Heard the arguments advanced by the learned counsel for the petitioner and learned HCGP, perused the records. -4-

4. The allegations of the complainant disclose that the door lock of her house was broken and household articles were burnt, when she returned in the evening on 12.03.2023. The alleged offence is said to have been committed between 11.03.2023 morning to 12.03.2023

evening at 7 P.M. The allegations of the complainant further discloses that on her enquiry, the neighbours have reported that the petitioner was found moving around her

house on 11.03.2023, during the day hours. Therefore, she has suspected the involvement of the petitioner as they were certain issues between the petitioner and his son as well as daughter-in-law as he asked them to vacate the house, which was questioned by the complainant as daughter-in-law of the petitioner is the daughter of the

complainant. Though the crime was registered on 13.03.2023 itself regarding the offence said to have taken placed on 12.03.2024 the anticipatory bail petition was filed during September, 2023 nearly after 7 months. The anticipatory bail petition was rejected on 16.10.2023. However, this present bail petition before this court was

-5- submitted on 24th February i.e. four months after dismissal of the petition. It is hard to accept the contentions of the petitioner that he was unaware of the lodging of the complainant. Even after dismissal of the bail petition initially by the Sessions Judge, his conduct discloses that he has not taken it seriously and was capable of managing the things.

5. Learned HCGP submits that in view of the non co-operation of the petitioner, the investigation officer was compelled to submit a C-final report, which discloses that the petitioner has not at all co-operated with the investigation agency and all along playing hide and seek game with them.

6. Though it is asserted that he was in the village

itself, in that event he could have approached this court immediately seeking anticipatory bail after rejection of the anticipatory bail by the learned Sessions Judge. But he has taken four months to approach this court. This conduct on the part of the petitioner discloses that he has not

-6- approached the court with clean hands. The records also discloses that certified copy of the order of dismissal was obtained on 26.10.2023 itself, but the delay in approaching this court is not properly explained. Due to non co-operation of the petitioner, the investigation could not be completed, which has resulted in delaying investigation, which compelled the investigation officer to submit C-final report. Considering the conduct of the petitioner and he being a nearest relation to the complainant, it is hard to accept that he is unaware of the

lodging of the complaint itself. Hence, considering the conduct the petitioner, he is not entitled for anticipatory bail and his remedy is to surrender and co-operate with the investigation officer. Hence, the petition being devoid of any merits, does not survive for consideration. Accordingly, the petition stands rejected. Sd/- JUDGE AMM, List No.: 1 Sl No.: 29

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