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Court : Karnataka

Decided On : Apr-04-2007

Reported in : 2007CriLJ3503

Judge : Mohan Shantanagoudar, J.

Acts : Indian Penal Code (IPC), 1860 - Sections 34, 153A, 153B and 295A; Code of Criminal Procedure (CrPC) , 1973 - Sections 438

Appeal No. : Criminal Petition No. 1043 of 2007

Appellant : B.V. Seetharama and anr.

Respondent : State by Inspector General of Police

Advocate for Def. : S. Doreraju, State Public Prosecutor

Advocate for Pet/Ap. : Ravishankar, Adv. for Ashok Haranahalli, Adv.

Disposition : Petition dismissed

Judgement :
ORDER

Mohan Shantanagoudar, J.

1. Petitioners by filing this petition under Section 438 of the Criminal Procedure Code, 1973 have sought for the following reliefs. -

It is prayed that this Hon'ble Court may be pleased to allow this criminal petition and direct enlargement of the petitioners on bail in case they are arrested in relation to the offences punishable under Sections 153A, 153B and 295A read with Section 34 of Indian Penal Code, 1860, which will be registered based upon newspapers publications published in Kannada Daily 'Karavali Ale', 'Sanje Ale' and 'Kannada Janataranga' in the interest of justice.

2. Petitioner 1 is the Chairman and Director and petitioner 2 is the Managing Director of Kannada Daily Newspapers 'Karavali Ale', 'Sanje Ale' and 'Kannada Janataranga'. On 2-2-2007, an article is published in the above newspapers regarding Jain Religion and some Jain Saints. In that regard two complaints are lodged against the petitioners one by Rajavarma Ballal which is registered in Crime No. 30 of 2007 of Panambur Police Station, Mangalore and another by Rajkumar Naik which is registered in Crime No. 52 of 2007 of Sagar Town Police Station, Shimoga District. In both these crimes, the petitioners are arrested and released on bail. Both the crimes were registered for the offences punishable under Sections 153A, 153B and 295A read with Section 34 of IPC. The petitioners apprehend that similar complaints may be filed against them in future by some other persons alleging the very offences at different places and they may have to file bail applications in various Courts and may have to face trial in different Courts. For the purpose of avoiding filing of such bail applications repeatedly in future, this petition is filed praying for a blanket order of anticipatory bail.

3. According to the State, the articles published by the petitioners are aimed to create disharmony and clashes among the different classes of the society. It is observed in the said article that Jain Munishri Tarun Sagar is depicted as a naked Muni causing obscenity to the public; the religious processions of Jain Muni are compared to that of banned activity of Bethale Seve in certain portions of Karnataka. According to the State, Jain Munis, particularly digambaras are aimed at promoting peace, harmony and tranquility in the society. Thus, the learned State Public Prosecutor opposed grant of order of anticipatory bail.

4. Except the aforesaid two crimes) no other crime is registered against the petitioners as on this day. Such a prayer of the petitioners that they may be

directed to be released on bail in case of their arrest in relation to offences punishable under Sections 153A, 153B and 295A read with Section 34 of IPC, cannot be granted. The petitioners must show that they have 'reason to believe' that they may be arrested for non-bailable offence. The use of the expression 'reason to believe' means that the petitioners' apprehension must be founded on reasonable grounds. Mere 'fear5 is not belief. The petitioners will have to show the imminence of a likely arrest founded on reasonable belief. Anticipatory bail is a device to secure the individual's liberty and it is neither a passport to the commission of the crimes nor a shield against all and any of the crimes. As has been held by the Hon'ble Apex Court in the case of Adri Dharan Das v. State of West Bengal : 2005 CriLJ1706 , the blanket order should not generally be passed. Though it is true that filing of First Information Report is not a condition precedent to exercise power under Section 438 of the Cr. P.C., the petitioners however should show to the Court that they have reason to believe that they may be arrested.

5. In this matter the petitioners have asked for blanket order of anticipatory bail by filing this petition inasmuch as their prayer is to grant them relief of bail in all the future cases to be registered against them anywhere in the State of Karnataka for the aforesaid offences. Such a relief of blanket order of anticipatory cannot be granted.

Accordingly, petition is dismissed. However it is open for the petitioners to file application for anticipatory bail or bail in individual cases if the crimes are registered against them.

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