

Ramachandra Son of Hanamappa and ors Vs. the State of Karnataka

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Court : Karnataka

Decided On : Nov-03-2010

Judge : L Narayana Swamy J.

Appeal No. : CRIMINAL PETITION NO.8341 OF 2010

Appellant : Ramachandra Son of Hanamappa and ors

Respondent : The State of Karnataka

Advocate for Def. : SRI. K. B. ADYAPAK, AGA

Advocate for Pet/Ap. : Sri JAJAGADISH PATIL, ADV

Judgement :

ORDER

1. A case has been registered by the Kerur Police against the petitioners in Crime NO. 123/2010 for offences punishable under Section 80. 81 OF KP ACT AND 143. 147. 148, 336, 342. 323. 324. 504, 506. 109, 353, 307 R/W 149 OF IPC.

2. Learned counsel for the petitioners submitted that the petitioners have been falsely implicated in the case and in fact they were playing cards but not andar-bahar. Since it was a festival day, the people surrounding the village gathered and they were playing cards not for gambling purpose. As it is stated in the complaint itself about 17 police officials on receiving the credible information that the petitioners were gambling went to the spot and gherowed the said assembly and

on enquiry, the police came to know about names and address of each one of them who were about 44 persons and two of the said unlawful assembly escaped and brought about 50-60 people to the spot and they were armed with stones, clubs etc. those persons who were arrested were granted bail. The police have arrested innocent people and he further submits that one among them is a milk vendor and he went to the spot to collect milk for supplying the same. In criminal Miscellaneous No.372/2010 where two persons who have alleged that they have escaped and brought 50 persons to commit the offence have been granted bail. In the said petition it is stated that substantive portion of investigation is complete. Since from the date of arrest, the petitioners are in judicial custody, counsel seeks for grant of bail to the petitioners.

3. Statement of objections is filed by the learned Government Pleader. Learned government Pleader submits that while the police officers were discharging their duty, the accused persons threatened the police with dire consequences and of pouring kerosene oil and they also assaulted and caused injuries to many officers including the Superintendent of Police and Deputy Superintendent of Police who were on duty. And in order to save their life, the bodyguard of Superintendent of Police fired three rounds in the air to deter the mob.

Since the accused have obstructed the police from discharging their duty and have also assaulted the police are not entitled to bail. If they are enlarged on bail it will be very difficult to maintain law and order and hence prays for dismissal of the petition.

4. Heard the counsel for the petitioners and the learned Government Pleader and I have gone through the contents of the complaint.

5. On receiving credible information that the petitioners were gambling on 17/09/2010 at 3.30. P.m. they were arrested and were found in possession of Rs. 1,17,065/-. Ex.P-7 was drawn in the presence of panchas on the same night. It is further seen from the statement that the accused have assaulted the police officers who were discharging their duty who fired three rounds of fire in the air. Hence, the accused have committed a serious offence by assaulting the police officers on duty. The petitioners are in jail for the last 40 days as stated by counsel

for the petitioners and as is clear in Criminal Miscellaneous NO.372/2010 that investigation is complete substantively. Therefore the presence of the petitioners is not required for any other purpose and they cannot be kept in jail till completion of trial. Under the circumstances, I deem it fit to enlarge the petitioners on bail. Accordingly I pass the following order.

6. The petition is allowed. The petitioners (Crime No. 123/2010) are enlarged on bail under Section 439 Cr.P.C subject to following conditions:

- 1) The petitioners shall execute a bond for a sum of 25,000/- each with one surety for the like sum to the satisfaction of the committal Court.
- 2) The petitioners shall make themselves available to the investigating agency as and when required.
- 3) The petitioners shall not leave the jurisdiction of the Court without prior permission.
- 4) The petitioners shall not intimidate or tamper with prosecution material or witnesses.
- 5) The petitioners shall mark their attendance before jurisdictional Police once in fortnight on Sunday between 10.00 a.m. to 5.00 p.m. until further orders.

Violation of any of the above conditions shall result in cancellation of the bail.

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