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Court : Karnataka

Decided On : Jun-07-2011

Judge : C.R. Kumaraswamy, J.

Acts : Code of Criminal Procedure(Cr.P.C) - Section 438; Indian Penal Code (IPC) - Sections 307, 323, 324, 504, 34

Appeal No. : CRIMINAL PETITION NO,2777 OF 2011

Appellant : Subramami Son of Jayappa

Respondent : The State of Karnataka

Advocate for Pet/Ap. : SRI. B. ANAND. ADV

Judgement :

ORDER

1. This Criminal Petition is filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioner on bail in the event of his arrest in Crime No.13/2011 of Srinivasapura Police Station, Kolar District, which is registered for the offences punishable under Sections 307, 323, 324, 504 read with Section 34 of Indian Penal Code.

2. I have heard the learned counsel for the petitioner as well as the learned High Court Government Pleader. I have perused the records.

3. Srinivasapura Police have registered a case in Crime No.13/2011 against accused No.l-J.Subiamani, accused No.2 Chandrababu, accused No.3-Krisiniamurty, accused No.4-Jayappa, for the offences punishable under Sections 307, 323, 324, 504 read with Sect'on 34 of Indian Penal Code on the complaint of Palguna. It is alleged in the complaint that on 14.1.2011 at 6.30 p.m. the accused picked up quarrel with the complainant near Diary at Kolathuru Village. Due to previous enemity, the accused assaulted him with an intention to kill the complainant. It is also alleged that accused No.l with an intention to kill the complainant assaufted him by means of a knife on his head, ear and consequently, he sustained injuries.

4. The main allegation against the petitioner is that he assaulted the complainant by means of chopper. Consequently left ear of the complainant was cut and there was incised wound. Wound Certificate of Palguna is produced by the learned counsel for the petitioner and its contents discloses that the injuries were of grievous nature. It is also stated that wound became healthy and Palguna was declared fit for discharge.

5. Learned High Court Government Pleader submits that investigation is completed and charge sheet has been filed.

6. It is the contention of the learned counsel for the petitioner that accused Nos.2 to 4 have already been released on anticipatory bail. Therefore, he submits that this petitioner may also be released on bail on the ground of parity. Though the offence has taken place on 14.1.2011, till today, the Police have not apprehended the petitioner. Considering the inaction on the part of the Police in arresting the petitioner in connection with this crime, it will be of no use if this petition is dismissed. Therefore, in my view, if the petitioner is granted with anticipatory bail, it will enable him to appear before the Police and the Police will be able to proceed further in the matter. Therefore, in my opinion, the petitioner is entitled for anticipatory bail.

7. In the result, I pass the following;

ORDER

This Criminal Petition is allowed conditionally. The petitioner is granted with anticipatory bail. The respondent-Police are directed to release the petitioner on bail in the event of his arrest in Crime No. 13/2011 of Srinivasapura Police Station on his executing a personal bond for a sum of ^10,000/- with two sureties for the Irkesum to the satisfaction of the respondent-Police on the following conditions.

i) The petitioner shall not tamper with the prosecution witnesses nor hamper the investigation in any manner.

ii) In the event of the respondent-police making out a case of a likely discovery under Section 27 of the Evidence Act, the petitioners released on bail shall be liable to be taken to Police custody for facilitating the discovery.

iii) He shall mark the attendance before the respondent once in a week till completion of the trial.

iv) If any of the conditions is violated, the

v) Intimate the concerned accordingly.

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