

Babu vs The State on 29 January, 2013

:1:

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 29TH DAY OF JANUARY 2013

BEFORE

THE HON'BLE MR. JUSTICE K.N.KESHAVANARAYANA

CRIMINAL PETITION NO.7258 OF 2012

BETWEEN:

1. BABU
S/O ARJUN PAWAR
AGE: 30 YEARS
R/O HUT, POLE NAGAR
VOHIDAVADI
PUNE DISTRICT - 411 012
MAHARASHTRA STATE
2. DATTARAM JADAV
S/O RAMJADAV
AGE: 38 YEARS
R/O HUT,
AMBEDKAR COONY
DAPODI GRAMA
PUNE DISTRICT - 411 012
MAHARASHTRA STATE
3. SOPAN RAM PAWAR
S/O RAMPAR
AGE: 33 YEARS
R/O HUT
INDIRANAGAR
VOHIDAVADI
PUNE DISTRICT - 411 012
MAHARASHTRA STATE
4. GANESH KALU
S/O LATE KALU
AGE: 35 YEARS

:2:

R/O HUT

INDIRANAGAR
VOHIDAVADI
PUNE DISTRICT - 411 012
MAHARASHTRA STATE

5. SUBHASH ANNA PAWAR
SON OF ANNA
AGE 30 YEARS
R/O HUT
DAPODI GRAMA
PUNE DISTRICT - 411 012
MAHARASHTRA STATE

6. KIRAN
S/O ANIL
AGE: 26 YEARS
R/O HUT
DAPODI GRAMA
PUNE DISTRICT - 411 012
MAHARASHTRA STATE

7. RAJU
S/O ANNA
AGE: 30 YEARS
R/O HUT
INDIRANAGAR
VOHIDAVADI
PUNE DISTRICT - 411 012
MAHARASHTRA STATE ..PETITIONERS

(BY SRI.AJAY R ANNEPPANAVAR, ADV.)

AND:

THE STATE
BY DEVARAJ POLICE STATION
MYSORE
TALUK & DISTRICT:
MYSORE - 570 002. ...RESPONDENT

(BY SRI.RAJESH RAI K., GP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION
439 OF THE CODE OF CRIMINAL PROCEDURE WITH A
:3:

PRAYER TO ENLARGE THE PETITIONERS ON BAIL IN
CR.NO.181/2012 OF DEVARAJA P.S., MYSORE CITY, FOR
THE OFFENCE PUNISHABLE UNDER SECTION 399 AND
402 OF IPC.

THIS CRIMINAL PETITION COMING FOR ORDERS ON
THIS DAY, THE COURT DELIVERED THE FOLLOWING:-

ORDER

In this petition filed under Section 439 of the Code of Criminal Procedure, petitioners 1 to 7 arraigned as accused Nos.1 to 7 in Crime No.181/12 of Devaraja Police Station, Mysore registered for the offences punishable under Sections 399 & 402 of Indian Penal Code have sought for an order to enlarge them on bail.

2. According to the case of the prosecution at about 2.00 a.m. on 12.10.12, when P.S.I. Devraj Police Station along with his staff was on patrolling duty, near Railway under bridge, they noticed a cement colour Tata Safari bearing registration No.MH 14/X 9090 and one person sitting on the driver's seat along with another and about 7 to 8 standing by the side of the Car armed with clubs and iron rods etc. Immediately the PSI and the staff surrounded all those persons and caught hold all of them. On interrogation all of them disclosed their names and identity. They disclosed that they hail from Maharashtra and they had gathered there to commit acts of dacoity. The weapons held by them as well as the vehicle parked there were seized. They seized mobiles, iron rods and cash from each of those persons. Thereafter, on the basis of suo moto report of the PSI, case came to be registered and the investigation was taken up.

3. Subsequently, the petitioners were subjected to judicial custody. Their application filed for grant of bail was rejected by the learned Sessions Judge. In the meanwhile, on completion of investigation, charge sheet has been filed.

4. The petition is opposed by respondent-State.

5. I have heard both the sides and perused the records made available.

6. As noticed supra, even according to the case of the prosecution, the petitioner and other accused had made preparations to commit decoity / robbery. There was no accomplished act. The application filed by the petitioner seeking relief of bail came to be rejected only on the ground that the petitioners hailed from Maharashtra State, as such they do not have a permanent place of abode, therefore, if they are released on bail they are likely to flee away from justice. Having regard to the facts and materials placed on record at this stage I am of the opinion that the petitioners are entitled for the relief of bail. Merely on the ground that they hail from Maharashtra State, the relief of bail could not have been rejected. According to the petitioners they came to Mysore to watch Dusshera festival and they were caught by the police. The petitioners have undertaken to abide by the conditions that may be imposed by this Court. On 4.1.2013 this Court directed the learned Government Pleader to ascertain as to whether these petitioners are involved in any other case either in this State or in the State of Maharashtra. The learned Government Pleader today submitted that there is no report of these petitioners having involved in any other case. In this view of the matter, petitioners are entitled for the relief of Bail.

7. Hence, the petition is allowed. The Petitioners are ordered to be enlarged on bail in connection with case in Crime No.181/2012 on the file of Devaraja Police Station, Mysore City on each of them executing a personal bond for a sum of Rs.50,000/- with two sureties for the like sum out of which

one should be a local solvent surety, to the satisfaction of the Jurisdictional Magistrate/Sessions Judge and subject to further conditions that,

- i) The petitioners shall not tamper or terrorise the prosecution witnesses in any manner.
- ii) The petitioners shall not indulge in any acts similar to the one alleged in the case.
- iii) The petitioners shall appear on all hearing dates before the Trial Court without fail.

SD/-

JUDGE SS