

Maragubhusain And Ors vs The State Of Karnataka on 31 July, 2017

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IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH

DATED THIS THE 31ST DAY OF JULY, 2017

BEFORE

THE HON'BLE MR.JUSTICE B. A. PATIL

CRIMINAL PETITION No.200810/2017

Between:

- 1) Maragubhusain S/o Matabulhusain,
Age : 30 years, Occ: Business
R/o Chakkaraki Milk (Mukarabpur),
Moradabad, Uttar Pradesh State.
- 2) Riyajauddin S/o Kumalauddin,
Age : 41 years, Occ: Business
R/o Pakkabhag, Asal Tapoor,
Gal Shaheed P.S.
Moradabad, Uttar Pradesh State.
- 3) Irashad @ Irshad S/o Mujafar,
Age: 24 years, Occ: Business
R/o Katagar Mohalla Thana,
Katagar Galli No. 4
Moradabad, Uttar Pradesh State.
- 4) Araman S/o Nafeejahmad
Age: 22 years, Occ: Business
R/o Idaga Mohalla Galli No.1,
Thana Katagar P.S.
Moradabad, Uttar Pradesh State.

... Petitioners

(By Sri Ishwaraj S. Chowdapur, Advocate)

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And:

The State of Karnataka
[Through Ghandi Chowk P.S. Vijayapura]
Represented by Addl. State
Public Prosecutor High Court of Karnataka
Kalaburagi Bench.

... Respondent

(By Sri Sheshadri Jaishaknar, HCGP)

This Criminal Petition is filed under Section 439 of Cr.P.C., praying that this Hon'ble Court may be pleased to, released the petitioner on bail in Crime No. 145/2017 of Ghandi Chowk Police Station, Vijayapura which is pending before the I Addl. JMFC Court, Vijayapura, which is registered for the offences P/U/Sec. 392 of IPC.

This petition coming on for Orders this day, the Court made the following:-

ORDER

This petition is filed by the petitioners/accused Nos.1 to 4 under Section 439 of Cr.P.C., seeking regular bail in Crime No.145/2017 of Gandhi Chowk P.S., Vijayapura, registered for the offence punishable under Section 392 of Indian Penal Code.

2. Brief facts leading to filing of the complaint is that, on 15.5.2017, complainant had withdrawn a sum of Rs.1,01,500/- from Siddeshwar Bank at about 11:30 a.m. and gave Rs.1,500/- to his mother and retained Rs.1,00,000/- with him in his pocket for meeting out the marriage expenses of his elder brother. When himself along with his mother were going near Gandhi Chowk, at that time, an unknown person came from opposite side on bicycle and dashed to the complainant and he fell down, then another person came suddenly and took Rs.1,00,000/- from his pant pocket and both of them went away. As such, a case came to be registered against unknown person.

3. I have heard the learned counsel for the petitioners and the learned High Court Government Pleader appearing for respondent-State.

4. The main grounds urged by the learned counsel for the petitioners are that, petitioners are innocent and they have not committed any offence. He further contended that only allegation is against the petitioner Nos.1 and 2, not against the petitioner Nos.3 and 4. The petitioners have been apprehended only on the basis of the voluntary statement given by the accused No.1. He would further contend that the trial Court has rejected the bail application only on the ground that they are belonging to Uttar Pradesh, it is very difficult to secure, if they were released on bail. He would further contended that even on going through the contents of the complaint there is no ingredient of robbery are attracted and the alleged offences are not punishable with death or imprisonment for life. He would further contend that, if the petitioners are released on bail, they are ready to abide by the conditions to be imposed by this Court and they are ready to offer sureties. On these grounds, he prays for allowing the petition.

5. On the contrary, learned High Court Government Pleader appearing for the respondent-State vehemently contended that, petitioners are the habitual offenders and they are from Uttar Pradesh State and if they are released on bail, they may abscond and they may not be available for the trial. He would further contend that there is voluntary statement of accused No.1 for having committed the alleged offence. At this juncture, if the petitioners are released on bail, there is likelihood of their being absconding and they may not be available for trial. On these grounds, he prays for dismissal of the petition.

6. I have gone through the copy of the FIR, complaint and other material produced along with the petition.

7. On going through the contents of the complaint, it indicates that on 15.5.2017, when the complainant after withdrawing the cash from the Siddeshwar Bank, he kept Rs.1,00,000/- with him in his pant pocket, at that time, one unknown person came from opposite side on a bicycle and dashed to the complainant, when the complainant fell down, another person came and took Rs.1,00,000/- from his pant pocket. Thereafter, both the culprits went away. On going through the contents of the complaint, the said complaint is not going to satisfy the ingredients of provision of robbery, at the most it may amount to theft. Be that as it may. The trial Court has rejected the bail application filed by the petitioners only on the ground that they are from Uttar Pradesh State it would be difficult to secure their presence, if they were released on bail. Merely because the petitioners are from Uttar Pradesh State, it would not be a ground for rejection of the bail petition. When the alleged offences are not punishable with death or imprisonment for life and since the petitioners are ready to abide by the conditions to be imposed by this Court and are ready to offer sureties, under such circumstances, if the petitioners are enlarged on bail by imposing stringent conditions, it is going to meet the ends of justice.

8. For the above reasons, the petition is allowed and petitioners/accused No.1 to 4 are ordered to be released on bail, subject to the following conditions:

- i) The petitioners shall execute a personal bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) each with two local solvent sureties for the likesum to the satisfaction of the jurisdictional Court;
- ii) The petitioners shall not indulge in hampering the investigation or tampering the prosecution witnesses directly or indirectly;
- iii) The petitioners shall make themselves available to the Investigating Officer as and when required;
- iv) The petitioners shall mark their attendance before the Investigating Officer once in fortnight till conclusion of trial.
- v) If any breach of conditions of bail order, the bail automatically stands cancelled.

Sd/-

JUDGE BL Ct: VK