

Jacob Imanual Shivapur vs The State Of Karnataka on 20 December, 2021

Author: Shivashankar Amarannavar

Bench: Shivashankar Amarannavar

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 20 T H DAY OF DECEMBER 2021
BEFORE
THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

CRIMINAL PETITION NO.102356 OF 2021

BETWEEN:

JACOB IMANUAL S HIVAPUR
AGE: 24 YEARS , OCC: PRIVATE JOB,
R/O: GURUPRASAD BUILDIN G,
SHIVAJI NAGAR, BELAGAVI .

...PETITIONER

(BY SRI VITTAL S. TELI , ADV .)

AND:

THE STATE OF KARNATAKA
REPRES ENTED BY THE
STATE PUBLIC PROSECUTOR,
HIGH COURT OF K ARNATAKA,
DHARWAD BEN CH, DHARWAD,
THROUGH MARKET POLICE STATION ,
BELAGAVI CITY, BELAGAVI .

... RES PONDENT

(BY SRI RAMESH B. CHIGARI , HCGP)

THIS CRIMINAL PETITION IS FILED U/S 439 OF
CR.P.C. S EEEKING TO GRANTE REGULAR BAI L AND
PETITIONER/ACCUSED NO.5 MAY KINDLY BE

ENLARGED ON BAIL IN MARKET P.S. CR. NO.170/2021
PENDING ON THE FILE OF THE II JM FC-BELAGAVI FOR
OFFENCES UNDER SECTION 399 AND 402 OF THE INDIAN
PENAL CODE (HEREINAFTER REFERRED TO AS THE 'IPC') AND
SECTION 41(1)(D), 102 OF CR.P.C. 1973.

THIS CRIMINAL PETITION IS COMING ON FOR
ORDERS, THIS DAY, THE COURT MADE THE
FOLLOWING:

ORDER

Accused No.5 has filed this petition under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Cr.P.C.', for brevity) seeking bail in Crime No.170/2021 of Market Police Station, Belagavi registered for the offences punishable under Sections 399, 402 of the Indian Penal Code (hereinafter referred to as the 'IPC', for brevity) and Section 41 (1)(D) and 102 of Code of Criminal Procedure 1973.

2. The case of the prosecution is that on 15.11.2021, the P.S.I, Market Police Station, Belagavi was on patrolling duty along with his staff, at that time received credible information that in 2nd Cross of Mahadwar road, five persons were sitting in suspicious manner. He went there along with his staff and watched from a distance and five persons were sitting in the open space situated at 2nd Cross of Mahadwar road and they tried to conceal themselves and started running from the spot on seeing the Police. The Police surrounded and caught them and they revealed their names and addresses. They were found possessing jambe, knife, monkey cap and chilli powder with them. They revealed that they gathered to commit robbery and decoity. The said weapons and other articles have been seized under mahazar and the complaint came to be registered for the aforesaid offences. All the accused Nos.1 to 5 were arrested and remanded to judicial custody. The accused No.5 filed Crl. Misc. No.1316/2021 seeking bail and the same came to be rejected by the learned X Additional District and Sessions Judge, Belagavi by order dated 01.12.2021. Therefore, the petitioner is before this Court seeking bail.

3. Heard the learned counsel appearing for the petitioner and the learned High Court Government Pleader for the respondent-State.

4. It would be the contention of the learned counsel for the petitioner that the petitioner is innocent he has not committed any offence as alleged and he has been falsely implicated in this case. Accused No.3 has been granted bail, who is similarly placed to that of the petitioner and therefore the petitioner/accused No.5 is also entitled for grant of bail. The petitioner is in judicial custody since from 15.11.2021 and therefore he is not required for custodial interrogation. It is his further submission that major portion of the investigation is over. The petitioner is ready to co-operate with the Police in investigation. With this, he prayed to allow the petition.

5. Per contra, learned High Court Government Pleader would contend that the petitioner and other accused were caught red handed, when they sat along with the weapons and articles preparing to commit robbery. The knife, jambe, monkey cap, chilli powder etc., have been seized from their possession. The investigation is still in progress, if at this stage, the petitioner is granted bail, he will hamper the investigation and tamper the prosecution witnesses. With this, he prayed to reject the petition.

6. Having regard to the submission made by the learned counsel for the petitioner and the learned High Court Government Pleader, this Court has gone through the FIR, complaint and order passed by the learned Sessions Court.

7. The accusation leveled against the petitioner/accused No.5 and other accused is that, they gathered at the spot holding jambe, knife, chilli powder and monkey cap and etc., making preparation to commit robbery and decoity. They are caught red handed and the said weapons are seized under mahazar. The petitioner is in judicial custody since 15.11.2021 and therefore, he is not required for custodial interrogation. Accused No.2 has been granted bail, who is similarly placed to that of the petitioner/accused No.5. The petitioner has undertaken to co-operate with the Police in investigation. There are no criminal antecedents of the petitioner. The main objection of the prosecution is that, if the petitioner is granted bail, he will hamper the investigation and tamper the prosecution witnesses, can be met with by imposing stringent conditions.

8. In the facts and circumstances of the case and submission of the counsel, this Court is of the view that there are valid grounds for granting bail subject to certain terms and conditions. Hence, I proceed to pass the following:

ORDER The petition filed under Section 439 of Cr.P.C. is allowed.

Consequently, the petitioner/accused No.5 is ordered to be released on bail in Crime No.170/2021 of Market Police Station, Belagavi subject to the following conditions:

- i) The petitioner/accused No.5 shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with one surety for the like sum to the satisfaction of the jurisdictional Court.
- ii) The petitioner/accused No.5 shall not hamper the investigation and tamper the prosecution witnesses.
- iii) The petitioner/accused No.5 shall mark his presence before the Police Station concerned on first and third Sunday of every month between 10.00 a.m. to 2.00 p.m., for a period of six months.
- iv) The petitioner/accused No.5 shall co-operate with the investigation and make himself available for interrogation whenever required.

v) The petitioner/accused No.5 shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.

vi) The petitioner/accused No.5 shall not obstruct or hamper the Police investigation and not to play mischief with the evidence collected or yet be collected by the Police.

Sd/-

JUDGE SMM