

Mohammed Zain vs State By Bharathi Nagar P.S on 4 June, 2021

Author: K.Natarajan

Bench: K. Natarajan

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF JUNE, 2021

BEFORE

THE HON'BLE MR. JUSTICE K. NATARAJAN

CRIMINAL PETITION No.7957/2020

BETWEEN:

MOHAMMED ZAIN,
S/O NAWAB JAN,
AGED ABOUT 21 YEARS,
OCC:ACQUARIUM SHOP
NEAR BRAODWAY POLICE STATION,
SHIVAJI NAGAR,
BENGALURU - 560 001.

..PETITIONER

(BY SRI.ANNES ALI KHAN, ADVOCATE)

AND:

STATE BY
BHARTHI NAGAR P.S.
BANGALORE - 560 001.

REPRESENTED BY
THE STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
HIGH COURT BUILDINGS,
BANGALORE - 560 001.

..RESPONDENT

(BY SRI.K. NAGESHWARAPPA, HCGP)

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THIS CRIMINAL PETITION IS FILED UNDER
SECTION 439 OF CR.P.C. PRAYING TO PLEASED TO
ENLARGE THE PETITIONER ON BAIL IN
CR.NO.104/2020 OF BHARATHI NAGAR P.S.,

BANGALORE FOR THE OFFENCE P/U/S 363, 364A, 384
OF IPC.

THIS CRIMINAL PETITION COMING ON FOR
ORDERS THROUGH VIDEO CONFERENCING, THIS DAY,
THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed by the petitioner/accused No.1 under Section 439 of Cr.P.C., for granting bail in Crime No.104/2020 registered by Bharathi Nagar police for the offences punishable under Sections 363, 364A and 384 of the Indian Penal Code.

2. Heard the learned counsel for the petitioner and the learned High Court Government Pleader. Perused the records.

3. The case of the prosecution is that on the complaint of one Mohammad Sadiq, filed on 27.08.2020 alleging that somebody kidnapped his minor son aged 11 years when the child was playing in front of the house and he was found missing. After registering the case by the police, during the investigation, again complainant/informant approached the police and only on 28.8.2020, he has received the information at 12.50 A.M that some unknown persons made phone call from the mobile phone bearing No.8792112544 and told that he has pasted chit on the door of informant's shop and disconnected the call. When the informant went and saw the chit pasted on the door of the shop, there was threat posed in the said chit stating that informant's son has been kidnapped and he has to pay Rs.2,00,00,000/- (Rupees Two Crore) as ransom in order to bring the child to him. Otherwise, he will loose his son. Immediately the police swung into action and accused Nos.8 to 10 were arrested on 28.8.2020. During the investigation, petitioner was arrested on 29.8.2020. Thereafter, petitioner was remanded to Judicial custody. The petitioner approached the Session Judge for grant of bail but came to be rejected. Hence, the petitioner is before this court for grant of bail.

4. Upon hearing the arguments of learned counsel for the petitioner and the learned HCGP and on perusal of the records, it shows that the servant of the complainant was in financial crises, he met accused No.1 for money, further the accused No.1 made idea to kidnap the son of the complainant and accordingly took the help of other accused persons. Subsequently, the child was sent in a car with accused Nos.6 & 7 and they have been traced by the police. This petitioner telephoned to the complainant and informed that he left a chit in his shop and accordingly, the chit revealed that the complainant should pay Rs.2,00,00,000/- (Rupees Two Crore only) as ransom in order to release his son as the son of the complainant has been kidnapped by them, otherwise he will loose his son. The police after tracing the child and arresting the petitioner, recorded the statement and they have confessed the same before the police. The investigation is already completed, charge sheet has been filed. The co-accused persons 2 to 11 are said to be released on bail except this petitioner. Of course, the child was rescued from the accused Nos.6 & 7 and the main cause for abduction is accused No.11 who has already been granted bail by the Session Judge. Only this petitioner is left in the jail. Though the alleged offences are punishable with death or life imprisonment, all the other co-accused persons who are having similar allegations are granted bail by the Session Judge except this

petitioner who is the main accused in the case. Though the amount is demanded, but the amount has not been paid by the complainant the child was rescued. The petitioner is in custody for more than nine months and keeping him in custody will not serve any purpose. Looking to the facts and circumstances of the case, without express any opinion on the merits of the case, if the petitioner is released on bail, no prejudice would be caused to the case of the prosecution. Hence, I pass the following:

ORDER The criminal petition is allowed. The trial Court is directed to release the petitioner/accused No.1 on bail in Crime No.104/2020 registered by Bharathi Nagar police for the offences punishable under Sections 363, 364A and 384 of the Indian Penal Code, subject to the following conditions:-

i) Petitioner shall execute personal bond in a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for likesum to the satisfaction of the trial Court;

- ii) Petitioner shall not tamper with the prosecution witnesses directly or indirectly;
- iii) Petitioner shall not indulge himself in similar offences strictly;
- iv) Petitioner shall take the trial without causing any delay; and
- v) Petitioner shall not leave the jurisdiction

of this Court without prior permission.

If any of the conditions are violated, the prosecution is at liberty to file an application for cancellation of bail.

Sd/-

JUDGE cbc