

K Channabasappa Aliyas Channabasawa ... vs The State Of Karnataka on 26 May, 2023

Author: Shivashankar Amarannavar

Bench: Shivashankar Amarannavar

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CRL.P No. 100236 of 2023

IN THE HIGH COURT OF KARNATAKA, DHARWAD
BENCH

DATED THIS THE 26TH DAY OF MAY, 2023

BEFORE
THE HON'BLE MR JUSTICE SHIVASHANKAR AMARANNAVAR
CRIMINAL PETITION NO. 100236 OF 2023
BETWEEN:

K CHANNABASAPPA
@ CHANNABASAWA
S/O K SOMAPPA.
AGE 26 YEARS, OCC: AGRICULTURE
R/O HALAGAPURA VILLAGE,
TALUQ: HAGARIBOMMANAHALLI,
DIST: VIJAYANAGARA - 583 102.

...PETITION

(BY SRI. L S SULLAD, ADVOCATE)

AND:

Digitally signed
by
VIJAYALAKSHMI
M KANKUPPI

THE STATE OF KARNATAKA

VIJAYALAKSHMI
M KANKUPPI

Location: high
court karnataka
Dharwad bench
Date: 2023.06.02

12:55:30 +0530

THROUGH CIRCLE INSPECTOR

HAGGAILBOMMANAHALLI POLICE STATION
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA,

AT DHARWAD - 580 011.

...RESPONDENT

(BY SRI K S ABHIJITH, HCGP)

THIS CRIMINAL PETITION IS FILED U/SEC. 439 OF CR.P
SEEKING TO GRANT BAIL TO THE PETITIONER/ACCUSED NO. 2 I
CR. No.107/2022 OF HAGARIBOMMANAHALLI P.S. ON THE FILE
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CRL.P No. 100236 of 2023

OF SENIOR CIVIL JUDGE AND JMFC HAGARIBOMMANAHALLI FOR
THE OFFENCES PUNISHABLE U/S 363, 364(A), 506, 109 R/W 34
OF IPC AND SECTION 66(c) OF INFORMATION TECHNOLOGY ACT
2008.

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

ORDER

This successive bail petition is filed by the petitioner - accused No. 2 under Section 439 of Cr.P.C seeking bail in crime No. 107/2022 of Hagaribommanahalli Police Station registered for the offence punishable under Sections 363, 364-A, 506 and 109 read with Section 34 of IPC and Section 66-C of the Information Technology Act, 2008.

2. The case of the prosecution is that, one Krishnamurthy S/o Narayanaswami aged 71 years has filed complaint stating that he is residing with his son Raghavendra and two granddaughters and the victim boy aged 5 years. It is further stated that on 03.07.2022, when he was in the house at 03.00 p.m. his son and daughter-in-law came and told him that their son Aadvik had gone to play in the front yard, but he did not returned. Thereafter, they searched for him but could not trace out. It is further stated that at about 04.30 p.m. his son received a phone call on his mobile phone bearing No. 8722935282, from a mobile phone No.9886414562, wherein a person told him that his son is kidnapped and for his safe release he demanded a ransom of Rs.15,00,000/- and further told that if the said amount is not paid, they will send his son to some other place in a lorry. When the complainant's son told that he is not having that much of amount, immediately the said amount was reduced to Rs.3,00,000/- and asked him to come along with his wife to the place where he suggests and cautioned him not to inform the Police, else they will not see their son. The said complaint came to be registered against unknown person in Crime No.107/2022 of Hagaribommanahalli Police Station for the aforesaid offences. The Police conducted investigation. During the investigation, they collected call records and the SIM which is used to call the son of the complainant was standing in the name of one Kumarappa and on inquiry by the Police, he narrated that on 01.07.2022 he

submitted his Adhar Card and brought the SIM card from accused No.6 - Ravi and on the same day, two SIMS were activated in the name of Kumarappa. The Police have interrogated accused No. 6 and he revealed that on 01.07.2022, he activated two SIMs in the name of Kumarappa and one SIM has been given to Kumarappa and he kept another SIM with him. After that, accused No. 2 approached accused No. 6 and narrated that accused No. 1 is planning to make kidnap of a minor child and he required a SIM. Accused No. 6 gave that SIM, which is activated in the name of Kumarappa to accused No.1. Accused No. 1 took the boy from front yard of the house of complainant and handed over the boy to accused Nos. 3 and

4. Accused No. 2 made conversation with son of the complainant through the mobile phone bearing No. 9886414562. The Police during investigation traced out the victim boy. The petitioner - accused No. 2 came to be arrested on 04.07.2022 and he is in judicial custody. The petitioner filed Crl.Misc. Petition. No. 5449/2022 seeking bail and the same came to be rejected by the learned III Additional District and Sessions Judge, Ballari (sitting at Hosapete) by order dated 28.07.2022. The petitioner-accused No. 2 had filed Criminal Petition No. 102268/2022 before this Court at crime stage and it came to be rejected by order dated 25.08.2022. Thereafter, charge sheet came to be filed and this petitioner filed Criminal Miscellaneous No. 5651/2022 seeking bail and the same came to be rejected by order dated 27.10.2022.

3. This petitioner - accused No. 2 earlier approached this Court in Crl.P. No. 103365/2022 seeking bail and same came to be rejected by order dated 17.11.2022. Thereafter, the petitioner - accused No. 2 has not approached the Sessions Court but has filed this petition.

4. Heard arguments of the learned counsel for the petitioner - accused No. 2 and learned HCGP appearing for the respondent - State.

5. Learned counsel for petitioner would contend that accused No. 5 who is similarly placed to that of the petitioner

- accused No. 2 has been granted bail by the Sessions Court and therefore, petitioner - accused No. 2 is entitled for grant of bail on the ground of parity. He further submits that the petitioner is aged 26 years and he is in judicial custody for the last ten months. He placed reliance on the decision of the Hon'ble Apex Court rendered in the case of Mohammad Muslim alias Hussain Vs. State (NCT of Dehli) reported in 2023 SCC Online SC 352 and decision of the Allahabad High Court in the case of Deepu Vs. State of UP and others reported in MANU/UP/1152/2022. With this he prayed to allow the petition.

6. Per contra learned HCGP appearing for respondent - State would contend that petitioner - accused No. 2 has not made out any new ground for considering his successive bail petition. Petitioner - accused No. 2 is seeking bail on the ground of parity as accused No. 5 has been granted bail. But, the role of this petitioner - accused No. 2 is different and severe from the role of accused No. 5. He contends that there is recovery of phone and bike from this petitioner - accused No. 2 and there is criminal antecedent of this petitioner - accused No. 2 as he is involved in NDPS case which is a serious offence. He contends that the petitioner - accused No. 2 has been identified by the

witness in the Test Identification Parade. With this he prayed to reject the petition.

7. Having heard the learned counsel for petitioner - accused No. 2 and the learned HCGP appearing for the respondent - State this Court has gone through the charge sheet records and earlier order passed by this Court.

8. As per the charge sheet records accused No. 1 had kidnapped the victim boy for a ransom and this petitioner - accused No. 2 made a phone call to the son of the complainant and demanded ransom of Rs.15,00,000/- which was reduced to Rs.3,00,000/-. Said mobile phone of this petitioner - accused No. 2 and bike used for kidnapping the victim boy has been recovered at the instance of this petitioner - accused No.2 under mahazar. The SIM card used by this petitioner - accused No.2 to make phone call to C.W.5 has been recovered and it stands in the name of Kumarappa. Statement of the victim boy has been recorded and Test Identification Parade has been conducted wherein the victim boy who is cited as C.W.4 has identified five accused persons including this petitioner - accused No.2. Voluntary statement of this petitioner - accused No. 2 clearly shows his involvement in commission of the offence. Charge sheet material show prima facie case for the offence alleged against this petitioner - accused No. 2. The offence alleged against this petitioner - accused No. 2 under Section 363 IPC is a heinous offence punishable with imprisonment for a period of ten years. The petitioner - accused No.2 is having criminal antecedent and he is involved in NDPS case. If the petitioner - accused No. 2 is granted bail there is a threat to the complainant and other prosecution witnesses. Merely because the petitioner is granted bail in NDPS case is not a ground to grant bail to the petitioner - accused No. 2 in this case. Role of this petitioner - accused No.2 is different from that of the role of accused No. 5 who has been granted bail. Therefore, this petitioner - accused No.2 is not entitled for grant of bail on the ground of parity.

9. Petitioner - accused No. 2 has not made out any grounds for grant of bail in this successive bail petition. Hence, petition is dismissed.

Sd/-

JUDGE LRS