

# **Ayyappa @ Manikantha Rathod vs The State Of Karnataka & Ors on 28 September, 2020**

**Author: Hanchate Sanjeevkumar**

**Bench: Hanchate Sanjeevkumar**

IN THE HIGH COURT OF KARNATAKA  
KALABURAGI BENCH

DATED THIS THE 28TH DAY OF SEPTEMBER, 2020

BEFORE

THE HON'BLE MR.JUSTICE HANCHATE SANJEEVKUMAR

CRIMINAL PETITION NO.200626/2020

Between:

Ayyappa @ Manikantha Rathod  
S/o Narendra Rathod  
Age: 28 years, Occ. Business  
R/o Gurumitkal village  
Tq. & Dist. Yadgir  
Now at Bharat Fort Apartment  
Humanabad Road, Gunj Area  
Kalaburagi - 585 103

... Petitioner

(By Sri C.V. Nagesh, Senior Counsel for  
Sri Mahantesh H. Desai, Advocate)

And:

1. The State of Karnataka  
Through Madabool P.S.  
Represented through  
Addl. State Public Prosecutor of  
Hon'ble High Court of Karnataka  
Bench Kalaburagi - 585 102
2. Shambuling Natikar S/o Shivappa Natikar  
Age: 51 years, Occ: Agriculture  
R/o Basavanagar, Sedam  
Tq. Sedam, Dist. Kalaburagi - 585 103

... Respondents

(Sri Mallikarjun Sahukar, HCGP for R1)

2

This criminal petition is filed under Section 439 of

Code of Criminal Procedure, praying to release the petitioner on bail in Crime No.64/2020 of Madbool P.S., pending before the Court of V Addl. Sessions Judge at Kalaburagi, for the offences punishable under Sections 143, 147, 148, 341, 323, 324, 307, 365, 504, 506, 427 R/w Section 149 of IPC and Sections 3(1)(s) (r), 3(2)(v) of SC/ST (PA) Act, 1989.

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

ORDER

(Through Virtual Court) This petition is filed by the petitioner/accused No.1 under Section 439 of Cr.P.C., praying to enlarge him on bail.

2. Brief facts of the case of the prosecution as per the complaint averments are that, complainant is stated to be a social worker and on 19.06.2020 at 1.10 p.m., the complainant along with others were going from Sedam to Kalaburagi and then his friend Maruti had received a phone call that a lorry was going from Sedam to Kalaburagi carrying rice which is meant for distribution to the poor public and the said lorry was transporting the rice illegally. Accordingly, the complainant and others have intercepted the lorry bearing No.CG-04/CR-4799 and asked the lorry driver that what it contains and the lorry driver had answered that rice was being transported. At that time, the petitioner had instigated others by abusing in filthy language and then instigated to drive the lorry and car and accordingly the said lorry and car have been driven in a speed and these complainant and others have chased the lorry and car and after some time crossing few kilometers, it is stated that some men of the petitioner about 10 in numbers have intercepted the car of the complainant and ransacked the car and abused them in filthy language and assaulted with rod and nut fitting instrument and in the said assault, one Prashant Sedamkar had sustained injuries. Therefore, with these allegations, the complainant has lodged a complaint with the respondent-Police and based on the said complaint, a case was registered in Crime No.64/2020 for the offences punishable under Sections 143, 147, 148, 341, 323, 324, 307, 365, 504, 506, 427 R/w Section 149 of IPC.

3. Heard the learned Senior Counsel Sri C.V. Nagesh, appearing on behalf of the petitioner and the learned High Court Government Pleader for respondent No.1-State.

4. Learned Senior Counsel appearing on behalf of the petitioner vehemently submitted that as against the complainant and his men many cases are foisted and therefore, there is a political and business rivalry between the petitioner and complainant. Hence, such false complaint might have been filed by making use of the persons of political field as stated in the complaint. Therefore, submitted that the complaint itself is found to be false one. Further submitted that if at all the petitioner was transporting rice illegally, then information would have been given to the police and it is the police authorities to do and to check all the things, but without doing so, the complainant and his men by doing act as moral policing have committed the act as extra constitutional and therefore, questioning the act of complainant in intercepting the lorry and asking the petitioner and other persons that what the lorry contains. Therefore, submitted that the complainant and his men themselves have acted ultra vires to law. Therefore, submitted that it is nothing but business and

political rivalry between the petitioner and complainant's side. Further submitted that even though prosecution has stated that the petitioner has involved in as many as 14 cases, but among them five cases are registered under Section 107 of Cr.P.C. and which are pertaining to the years 2016 and 2017, but the life of Section 107 Cr.P.C. proceedings itself is six months and therefore, those cases are closed. Further submitted that other cases are foisted under the provisions of Essential Commodities Act. Therefore, submitted that due to the business rivalry, these cases might have registered, but most of the cases are ended in acquittal. Further submitted that some of the cases are culminated by filing 'B' report by the police itself, which shows that false cases are foisted against the petitioner. Therefore, submitted that just because number of cases are registered and it is projecting as if grave offence has been committed by the petitioner, but considering all these factual scenario, prima facie it reveals that due to the political and business rivalry, a false complaint is registered. Further submitted that in the very same crime alleged, the other co-accused have been released on bail by the Sessions Court. Therefore, prays to extend the benefit of parity to this petitioner also. Further submitted that the petitioner is in judicial custody for nearly three months and now the charge sheet has been filed and therefore the petitioner would not be required physically for the purpose of further investigation and if at all the police wants requirement of the petitioner for investigation, that would be taken care by imposing any condition on the petitioner.

5. Further, relying on the judgment of this Court in *Khajim @ Khajimulla Khan vs. The State of Karnataka* by Udayagiri Police Station, Mysuru District, reported in ILR 2020 KAR 1836, learned counsel for the petitioner submitted that in that case, the petitioner was granted anticipatory bail and one of the conditions imposed therein is that, the petitioner should not indulge in any other criminal activities. But, thereafter on the allegation that the said petitioner had indulged in other criminal activities, upon petition filed for cancellation of bail, the learned Sessions Judge has cancelled the bail and it was questioned before the Hon'ble High Court. Then the High Court was pleased to set aside the order of cancellation of bail and restored the order of granting anticipatory bail. Therefore, submitted that in the present case, after registration of this case, there is no allegation by the prosecution that the petitioner had involved in any other case. Therefore, the petitioner is standing on the better footing than that of the petitioner in the above cited case. Therefore, by relying on the said judgment, he prays to release the petitioner on bail.

6. On the other hand, learned High Court Government Pleader vehemently submitted that the petitioner had involved in as many as 14 cases and therefore, he is an habitual offender and after perusing the criminal antecedents of the petitioner, he is not entitled for getting released on bail. Further submitted that earlier the petitioner was involved in the offence of attempt to murder and in the present case also there is allegation against the petitioner that he had wrongfully confined the persons and attempted to commit the murder. Therefore, upon considering these grievous offences alleged against him, the petition is liable to be dismissed. Hence, prays to dismiss the bail petition.

7. Upon considering the materials available at this stage, it is true that as it is revealed from the statement of objections filed by the High Court Government Pleader, as many as 14 cases are registered against the petitioner, but among them two cases are registered under Section 107 of Cr.P.C. which are registered in the years 2016 and 2017, but the life of the proceedings initiated under Section 107 of Cr.P.C. itself is six months, therefore by now, those proceedings might have

been closed Further, another crime registered against the petitioner is that he had committed the motor vehicle accident. Accordingly, the case was registered for the offences under Sections 279, 337 and 506 of IPC and Section 189 of MV Act. Further, among the list of cases filed by the learned High Court Government Pleader, Crime No.157/2012 of Gurumitkal Police Station was ended in filing 'B' report by the police. Another case in Crime No.03/2016 of Gurumitkal Police Station was ended in acquittal as per the information furnished by the learned High Court Government Pleader. The other cases are registered under Sections 3 and 7 of the Essential Commodities Act. The other offences foisted against the petitioner are under Sections 504 and 506 R/w Section 34 of IPC which are non-cognizable offences. Further, one more case is stated in the statement of objections making allegation that in Crime No.231/2019, the petitioner has involved in the offence under Section 307 of IPC.

8. Therefore, upon considering the list of cases as furnished by the learned High Court Government Pleader most of the cases under the Essential Commodities Act, for which the offences are neither punishable with death nor imprisonment for life and furthermore cases registered under Section 107 of Cr.P.C. Furthermore, one case is ended in filing 'B' report as discussed above, another case is ended in acquittal as per the information submitted by the learned High Court Government Pleader.

9. Therefore, considering all these factors and also for the reason that now the police have filed the charge sheet against the petitioner as the information furnished by the learned counsel for the petitioner and prima facie it would amount that the petitioner may not be required for further investigation and therefore this may be made one of the factor to be considered in the present bail petition positively in favour of the petitioner.

10. Further in the very same crime as other accused are facing allegation that they have committed the offence punishable under Section 307 of IPC, but were granted bail by the Sessions Court in Crl.Misc.No.732/2020 on 31.07.2020. Prima facie the petitioner is also standing on the same footing as that of the petitioner in Crl.Misc.No.732/2020 as above stated but perusing the complaint averments that role of the petitioner when the lorry of the petitioner was intercepted and at that time the petitioner came there and abused in filthy language and driven the car and lorry in a speed and then the complainant and their men have chased the lorry and at that time the men of the petitioner have committed the offence as alleged. Therefore, in the complaint prima facie it is revealed that there is no physical participation of the petitioner in commission of offence of assault. Whether there was instigation or whether there was hatching conspiracy which are all to be considered during the full-fledged trial, but the fact is that now the police have filed charge sheet and which is culminating into registration of S.C.No.45/2020 before the Sessions Court, Kalaburagi as per the information furnished by the learned counsel for the petitioner and also it is the fact the petitioner is in judicial custody since 17.07.2020 nearly for three months. Hence, I am inclined to enlarge the petitioner on bail.

11. It is also not disputed fact by either side that cases are also foisted against the complainant and his men and are pending before the court. Therefore, there are cases and counter cases between the complainant's side and petitioner's side and in some of the cases the complainant's side men have been granted benefit of regular bail as well as anticipatory bail. Therefore, prima facie it is revealed

that there are case and counter case between two sides.

12. Therefore, considering all the above stated factors and keeping the apprehension of the interest of the prosecution and also keeping the individual liberty of the petitioner if some conditions are imposed that would make balance between them. Therefore, I am incline to grant bail to the petitioner with conditions, as stipulated below. Therefore, with these observations prima facie made as discussed above the present petition is liable to be allowed.

13. Accordingly, the petition is allowed. The petitioner/accused is enlarged on bail in Crime No.64/2020 of Madbool Police Station, for the offences punishable under Sections 143, 147, 148, 341, 323, 324, 307, 365, 504, 506, 427 R/w Section 149 of IPC and Sections 3(1)(s) (r), 3(2)(v) of SC/ST (PA) Act, 1989, pending before the V Additional Sessions Judge, Kalaburagi, subject to the following;

#### CONDITIONS

1. The petitioner shall execute personal bond in a sum of Rs.2,00,000/- with two solvent sureties for the like sum to the satisfaction of the concerned Court;
2. The petitioner shall not threaten or tamper with the prosecution witnesses;
3. The petitioner shall attend the Court regularly on all the dates of hearing, without fail and shall co-operate for speedy disposal of the case;
4. If the petitioner fails to appear before the court on two consecutive dates of hearing, then it may entail cancellation of liberty granted by this order.

Sd/-

JUDGE LG/sn