

Ayub Khan vs State Of Karnataka on 5 May, 2016

Author: Anand Byrareddy

Bench: Anand Byrareddy

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IN THE HIGH COURT OF KARNATAKA AT
BENGALURU

DATED THIS THE 05TH DAY OF MAY 2016

BEFORE

THE HON'BLE MR. JUSTICE ANAND BYRAREDDY

CRIMINAL PETITION No.1734 OF 2016

BETWEEN:

Ayub Khan,
Son of Khalik Khan,
Aged about 39 years,
Resident of Teggina Keri,
Harapanahalli Town,
Davanagere District - 573 201.

...PETITIONER

(By Smt. Reshma K.T., Advocate)

AND:

State of Karnataka,
By Harihara Town Police Station,
Davanagere - 573 202,
Represented by State Public Prosecutor,
High Court of Karnataka,
Bengaluru - 560 001.

...RESPONDENT

(By Shri B. Visweswaraiah, Government Pleader)

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This Criminal Petition is filed under Section 439 of the

code of Criminal Procedure, 1973, praying to enlarge the petitioner on bail in Crime No.166/2015 of Harihara Town Police Station, Davanagere, for the offences punishable under Section 394 read with 34 of Indian Penal Code, 1860.

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

ORDER

Heard the learned counsel for the petitioner. The petitioner is said to be accused no.3, on the basis of a complaint before the Harihara Town Police Station, lodged by the complainant one Hasan Miya, who is said to be carrying on business in beedi manufacturing. It transpires, as was his habit, he had gone to Bangalore to sell beedies and after having sold the same, he was carrying money in a sum of Rs.45,000/- on his return to Harihara and after alighting from the bus at 1.10a.m., on 18.9.2015, he was proceeding towards his village. At that point of time, it was alleged that the accused, including the present petitioner, had come on two motor cycles and after abusing the complainant, had assaulted him and had snatched the bag containing the money and had caused bleeding injuries and had thereafter fled from the scene. The petitioner is accused of having kicked the complainant on his chest in the process. The complainant after being discharged from the hospital, had lodged a complaint as above and as a result, a case was registered against the petitioner. The petitioner earlier having approached this court seeking anticipatory bail, he was directed to surrender and seek regular bail. Though the petitioner had thus surrendered and sought for regular bail, the court below has rejected the same, on the ground that there was incriminating material available against the petitioner and is accused of a serious offence of robbery and hence there is no case made out for enlargement on bail.

2. The learned counsel for the petitioner would point out that the complainant himself is not above board and it is only in order to foist a false case against the petitioner and others, the complainant has chosen to name him as the accused. Though serious offences have been alleged, it is not at the instance of the petitioner and certainly have to be proved at the trial. Now that the investigation has been completed and a charge sheet has been filed, the learned counsel for the petitioner would submit that the petitioner is entitled to be enlarged on bail given the circumstances of the case.

3. Though the learned Government Pleader would vehemently oppose the grant of bail, having regard to the seriousness of the allegations and since a charge sheet has been filed and as there is some doubt as to the involvement of the petitioner in the commission of the offence, the case would necessarily have to be established at the trial.

4. Consequently, the petitioner is entitled to be released on bail on his furnishing a self bond in a sum of Rs.40,000/- with a surety for a likesum to the satisfaction of the court below, subject to the following conditions:

- (i) The petitioner shall not tamper or prevail upon the prosecution witnesses in any manner.

(ii) The petitioner shall attend the court on all dates of hearing.

(iii) The petitioner shall not leave the jurisdiction of the court below without prior permission.

(iv) the petitioner shall cooperate with the Investigating Authority.

Sd/-

JUDGE nv