

Babu S/O Chandrappa vs The State Of Karnataka on 12 December, 2022

Author: Shivashankar Amarannavar

Bench: Shivashankar Amarannavar

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CRL.P No. 103848 of 2022

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 12TH DAY OF DECEMBER, 2022

BEFORE

THE HON'BLE MR JUSTICE SHIVASHANKAR AMARANNAVAR

CRIMINAL PETITION NO. 103848 OF 2022

BETWEEN:

1. BABU S/O CHANDRAPPA
AGE. 36 YEARS, OCC. AUTO DRIVER,
R/O. NEAR ANJANEYA SWAMI TEMPLE,
NAGALKERE, TQ AND DIST. BALLARI.
2. UMESH S/O LATE SRINIVAS
AGE. 23 YEARS, OCC. STREET HOTEL OWNER,
R/O. NEAR ANJANEYA SWAMI TEMPLE,
NAGALKERE, TQ AND DIST. BALLARI.

...PETITIONERS

(BY SRI. L S SULLAD, ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH ASSISTANT SUB INSPECTOR OF POLICE,
COWL BAZAR PS, BALLARI,
REPRESENTED BY,
HIGH COURT GOVT. PLEADER,

DHARWAD BENCH.

...RESPONDENT

(BY SRI. PRASHANTH V. MOGALI, HCGP)

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CRL.P No. 103848 of 2022

THIS CRIMINAL PETITION IS FILED U/S 439 OF CR.P.C.,
SEEKING TO ENLARGE THE ABOVE SAID PETITIONERS/
ACCUSED NO. 1 AND 2, ON BAIL IN BALLARI COWLBAZAR
POLICE STATION CR NO. 0241/2022, ALLEGING U/S
341,170.398 IPC, ON THE FILE OF II ADDL. CIVIL JUDGE
(JN.DN) AND JMFC, BALLARI.

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

ORDER

This petition is filed by the accused Nos.1 and 2 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.241/2022 of Cowl Bazar Police Station, Ballari, registered for the offences punishable under Sections 341, 170, 398 of The Indian Penal Code (hereinafter referred to as the 'IPC', for brevity).

2. The case of the prosecution is that, one Suresh has filed complaint stating that, on 31.10.2022, between 11.50 p.m. to 12.30 a.m. in the midnight when he along with his friends Boyaraju, Shaik Mabasha and Mujeeb were proceeding near O.P. Circle, Ballari in his Chaverlet Tavera Car bearing registration No.AP-09/GJ 5235, at that time, the accused Nos.1 and 2 came on a scooter having no number plate, wrongfully restrained the complainant by saying that, they are police persons and asked the vehicle documents and also Rs.20,000/- to the complainant. When the complainant refused to give the said amount, at that time, accused Nos.1 and 2 herein with an intention to commit robbery gave threat to the complainant and his friends by showing knife to them and there by the accused Nos.1 and 2 have tried to commit robbery, and at that time, the accused Nos.1 and 2 have shown a person sitting in Honda City car as Sub-Inspector, who came near them and told that, he is the Sub-Inspector and asked them to give documents. At that time, the police came to the spot and the person in the Honda City car ran away by driving his vehicle. The accused Nos.1 and 2 were caught hold and the said complaint came to be registered in Crime No.241/2022 of Cowl Bazar Police Station, Ballari for the offence punishable under Sections 341, 170 and 398 of IPC. The

petitioners who are in judicial custody have filed Criminal Miscellaneous No.896/2022 seeking bail and the same came to be rejected by the learned II Additional District and Sessions Judge, Ballari by order dated 17.11.2022. Therefore, the petitioners are before this Court, seeking bail.

3. Heard the arguments of the learned counsel for the petitioner and the learned HCGP for the respondent- State.

4. Learned counsel for the petitioner would contend that, accused No.3 has been granted bail by this Court in Criminal Petition No. 103710/2022 by order dated 06.12.2022 and therefore, these petitioners who were similarly placed to that of accused No.3 are entitled for grant of bail on the ground of parity. It is his further submission that the offences alleged against the petitioners are punishable with imprisonment for seven years. It is his further submission that there was no occasion for the complainant and others to come to Ballari Circle. The petitioners are the residents of Ballari. The alleged offence punishable under Section 398 of IPC is not attracted against these petitioners. As no injury has been caused by the weapon. As the petitioners are in judicial custody since 31.10.2022, they are not required for custodial interrogation. With this, he prayed to allow the petition.

5. Per contra, learned HCGP would contend that, the investigation is in progress. The police have recorded the statements of the eyewitnesses who have stated the acts of accused Nos.1 and 2 who are the petitioners herein. It is his further submission that, the offence alleged against these petitioners are punishable with imprisonment not less than seven years which may extent to imprisonment for life. If the petitioners are granted bail, there are chances of hampering the investigation and tampering the prosecution witnesses. The petitioners have used the weapon of knife and have committed robbery. With this, he prayed to reject the petition.

6. Having heard the learned counsel for the petitioners and the learned HCGP, this Court has gone through the averments of the complaint, FIR, remand application and the order passed by the Sessions Court.

7. These petitioners/accused Nos.1 and 2 were caught red handed by the complainant and others when they were attempting to commit robbery by showing knife. The petitioners represented themselves as the police staff and asked the complainant and others to show the documents of the car and demanded Rs.20,000/- contending that their vehicle has to proceed. At that time, the police came to the spot and the complainant and others have caught hold these petitioner and seizure of the knife from the possession of the petitioners. The petitioners have used the weapon of knife for attempting to commit the robbery. There is no allegation against accused No.3 that he holding weapon at the time of attempt to commit the robbery. Therefore, these petitioners are not placed similar to that of accused No.3 who has been granted bail by this Court. The petitioners are not entitled for grant of bail on the ground of parity. As the investigation is in progress, at this stage the petitioners/accused Nos.1 and 2 are not entitled for grant of bail.

Hence, the petition is dismissed.

Sd/-

JUDGE SMM