

Mohammed Ashik vs The State on 26 August, 2022

Author: K. Natarajan

Bench: K. Natarajan

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF AUGUST, 2022

BEFORE

THE HON'BLE MR. JUSTICE K. NATARAJAN

CRIMINAL PETITION NO.6681/2022

BETWEEN:

1. MOHAMMED ASHIK
AGED ABOUT 22 YEARS,
S/O ILYAS,
R/AT NO.2-266 B,
NEAR MALLAR PANCHAYAT,
MALLAR KAUP POST,
MAJUR KAUP, UDUPI TALUK,
UDUPI DISTRICT - 574 103
2. ISAAK @ ICCHU
JAFFAR SADIK,
AGED ABOUT 21 YEARS,
R/AT NEKKILADI HOUSE,
2-115, 34 NEKKILADI VILLAGE
AND POST, PUTTUR TALUK
D K - 574 325

... PETITIONERS

(BY SMT.HALEEMA AMEEN, ADV.)

AND:

THE STATE
BY KANKANADY POLICE STATION
MANGALORE
REPRESENTED BY PUBLIC PROSECUTOR
AMBEDKAR VEEDHI,
BANGALORE - 560 001

. . . RESPONDENT

(BY SRI KRISHNAKUMAR K.K, H.C.G.P.)

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THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF THE CR.P.C. PRAYING TO ENLARGE THE PETITIONERS ON BAIL IN CR.NO.30/2022 OF KANKANADY TOWN P.S., MANGALURU CITY FOR THE OFFENCE P/U/S 341, 394, 397 AND 307 R/W 34 OF IPC AND SEC.4, 25-1(B)(b) OF ARMS ACT, 1959 PENDING ON THE FILE OF THE J.M.F.C (VII) COURT, MANGALURU, D.K.

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

ORDER

This petition is filed by the petitioners/accused Nos.1 and 2 under Section 439 of the Code of Criminal Procedure, 1973, for granting regular bail in Crime No.30/2022 registered by Kankanady Police Station, Mangaluru City for the offences punishable under Sections 341, 307, 394, 397 r/w Section 34 of IPC, 1860 and Sections 4 and 25-1(B)(b) of Arms Act, 1959.

2. Heard the arguments of the learned counsel for the petitioners and the learned High Court Government Pleader for the respondent-State.

3. The case of the prosecution is that, one Mustaf filed a complaint in the police on 05.03.2022 alleging that on the said date at around 5.55 a.m., when he went in a tempo in order to purchase fish along with Rs.2,15,000/- cash with one Moosa and reached near the spot, a red car overtook and stopped the tempo and two persons get down from the car with weapons and asked to give money. When the complainant refused to give the money, the accused persons said to be assaulted, robbed the cash of Rs.2,15,000/-and went in the car. Thereafter, the complainant was shifted to the hospital and later, lodged a complaint. During the investigation, the police came to know that these petitioners were said to have been arrested by Sampigehalli Police Station in Cr.No.58/2022 on 05.04.2022 and at the time of recording their voluntary statements, the police came to know that these petitioners were involved in this case also and therefore, they were remanded to the judicial custody. The petitioners approached the Sessions Court for granting bail, which came to be rejected. Hence, the petitioners are before this Court.

4. Learned counsel for the petitioners contended that, the petitioners are innocent of the offences alleged and they are falsely implicated. There is no recovery from them and the police unnecessarily implicated by issuing body warrant in various cases even though they have not involved in those cases. Now in this case, the charge sheet has been filed and they are ready to abide by any of the conditions that may be imposed by the Court. Hence, she prayed for allowing the petition.

5. Per contra, the learned High Court Government Pleader has objected the petition and contended that, there are six cases registered against accused No.1 and three cases against accused No.2. They are involved in various cases i.e., dacoit and robbery cases throughout Karnataka including Davanagere, Gonibeedu, Manipal, Brahmawar and Bengaluru etc., If they granted bail, there is every likelihood to commit similar offences and abscond from the case is not ruled out. Hence, he prayed for rejecting the bail petition.

6. In reply, learned counsel for the petitioners submits that except the car, nothing has been recovered. The police also shot on the legs with gun and said to be arrested for the offences punishable under Section 307 of IPC in a crime against them and in the said case, they have already granted bail.

7. Having heard the arguments of learned counsel for the petitioners and learned High Court Government Pleader and on perusal of the record, it reveals ofcourse, a case against unknown person was registered by the Kankanady Police for having committed robbery of Rs.2,15,000/- from the complainant. Ofcourse, there is no recovery of the said amount from these petitioners.

8. Learned HCGP produced the case history of these petitioners where these petitioners were involved in so many cases in various parts of the State. There were five cases registered by the Manipal Police against accused No.1 in Cr.No.70/2022 for the offences punishable under Section 381 of IPC, Cr.No.189/2020 for the offences punishable under Section 392 of IPC, Cr.No.170/2020 for the offences punishable under Section 392 of IPC, Cr.No.171/2020 for the offences punishable under Section 392 of IPC, Cr.No.34/2022 for the offences punishable under Sections 341, 427, 405, 506 of IPC and there is another case registered by Kapu Police Station in Cr.No.107/2020 for the offences punishable under Section 307 of IPC. Subsequently, it is also revealed that there were three cases registered against accused No.2 in Cr.No.179/2021 of Baindoor Police Station for the offences punishable under Sections 354, 323, 447 of IPC, Cr.no.132/2019 of Brahmavar Police Station for the offences punishable under Sections 308, 457 of IPC and Cr.No.161/2021 of Bhatkal Police Station for the offences punishable under Section 307 of IPC. Other than the aforesaid cases, some more cases were registered against the petitioners at Davanagere, Gonibeedu, Brahmawar and Sampigehalli police stations. Ofcourse Sampigehalli Police were successful in apprehending accused Nos.1 and 2 by using the gun and shooting on the legs below the knee of the accused persons otherwise they might have absconded and escaped from the clutches of the law. The red car which was used by these accused persons have already been seized by the police. The car which was seized from the accused was a stolen care and the accused changed the registration number of the said car which reveals the modus operandi of the accused for committing the offence and escaping from the clutches of the law. Ofcourse, the police were unable to recover any money from these accused persons. Looking to the entire facts and circumstances of the case, ofcourse there is no recovery but, these petitioners were involved in various cases from 2020 to 2022. The petitioners were wanted in so many cases and if they granted bail, there is every possibility of absconding from the case and further committing similar offences is not ruled out. Therefore, I am of the view that the petitioners are not entitled for bail.

Accordingly, the petition is rejected.

Sd/-

JUDGE VM