

Karnataka High Court

Shashikant @ Pintya S/O Tirthappa ... vs The State Of Karnataka on 27 April, 2023

Bench: Ashok S. Kinagi

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CRL.P No. 200342 of 2023

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 27TH DAY OF APRIL, 2023

BEFORE

THE HON'BLE MR JUSTICE ASHOK S. KINAGI
CRIMINAL PETITION NO.200342 OF 2023

BETWEEN:

SHASHIKANT @ PINTYA S/O TIRTHAPPA HADAPAD
AGE: 25 YEARS, OCC: PRIVATE WORK
R/O CHINCHANSUR, TQ. ALAND, DIST. KALABURAGI
AT PRESENT R/AT. H.NO.313, GDA COLONY
SHAHABAZAR, KALABURAGI-585103

...PETITIONER

(BY SRI B. C. JAKA, ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH SUB-URBAN POLICE STATION

Digitally signed

by SWETA
KULKARNI

Location: HIGH
COURT OF
KARNATAKA

KALABURAGI-585102
NOW REPRESENTED BY

ADDL. SPP, HIGH COURT OF KARNATAKA

KALABURAGI BENCH

...RESPONDENT

(BY SRI SHARANABASAPPA M. PATIL, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439
OF CR.P.C. PRAYING TO ALLOW THIS PETITION AND ENLARGE
THE PETITIONER ON BAIL IN CRIME NO.77/2023 REGISTERED
BY SUB-URBAN POLICE STATION, KALABURAGI, FOR THE
OFFENCE PUNISHABLE U/SEC. 395 OF IPC, PENDING BEFORE
THE V ADDL. CJ (J.D) AND JMFC, KALABURAGI.

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

ORDER

The learned High Court Government Pleader has filed objections. The same is taken on record.

2. The petitioner has filed this petition under Section 439 of Cr.P.C. seeking to enlarge him on bail in Crime No.77/2023 of Sub-Urban Police Station, for the offence punishable under Section 395 of Indian Penal Code, 1860 (for short, 'IPC').

3. Brief facts leading rise to filing of this petition are as under:

The case of the prosecution is that on 13.03.2023 Sadik has filed written complaint against the accused Anil Pujari and others and on the basis of the said complaint, the police have registered the case in Crime No.77/2023 for the offence punishable under Section 395 of IPC. It is alleged that the complainant is having a house in Bijapur CRL.P No. 200342 of 2023 and gave the said house to accused No.1 Anil Pujari and Anil Pujari and his wife were residing in the said house on rent basis and they used to pay rent of Rs.5,000/-. They have paid Rs.5,000/- as advance while taking house on rent and thereafter, accused No.1 did not pay rent. The wife of the accused No.1 alone was residing in the house. Therefore, the complainant removed them from the house. Thereafter, the accused No.1 and his wife were started residing at Kalaburagi. Due to the above said reason, accused No.1 developed animosity against the complainant. The complainant came to know one girl by name Pallavi in instagram and he used to chat with her. On 02.03.2023, the complainant has purchased a new pulsar NS 200 motorcycle and on 12.03.2023 he and one Sameer S/o Noor Ahmed Laskari together had been to Bandenawaz Darga, Kalaburago from Bijapur for pooja of motorcycle, at that time, an auto rickshaw and motorcycle came there and in the said auto, accused No.1 and 5-6 persons were there, they took the key of his motorcycle, threatened the complainant by showing knife, chopper and CRL.P No. 200342 of 2023 iron rod. On seeing the public, they put chopper to their neck, took them in the said auto towards Aland road, abused him in filthy language and assaulted him. Hence, he lodged the complaint against the petitioner. The police have registered a case in Crime No.77/2023 for the offence punishable under Section 395 of IPC.

4. Heard the learned counsel for the petitioner and also learned High Court Government Pleader for respondent/State.

5. The learned counsel for the petitioner submits that there was delay in lodging the FIR against the petitioner and others. Further there are no allegations against this petitioner in regard to overt-act. The entire allegation is against accused No.1. He further submits that the petitioner has been falsely

implicated in the criminal case and there is no motive for the petitioner to commit the alleged offence. He further submits that the petitioner is in judicial custody since 14.03.2023. Hence, on these grounds, he prays to allow the petition.

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6. Per contra, learned High Court Government Pleader opposed the submissions of the learned counsel for the petitioner and submits that the petitioner has involved in heinous offence. If the petitioner is enlarged on bail, there is chances of tempering the prosecution witnesses. The police have not filed charge sheet. The presence of the petitioner is required for investigation. Hence, on these grounds, he prays to reject the petition.

7. Heard and perused the records and considered the submissions of the learned counsel for the respective parties.

8. From perusal of the FIR, there is no specific allegation against the petitioner and the entire allegation is against accused No.1. From perusal of the records, it is clear that the complaint is filed after 24 hours of incident. Thus, there is delay in lodging complaint. Having considered the gravity of offence, allegation made against the petitioner and lodging the complaint at a belated CRL.P No. 200342 of 2023 stage, this Court is of the opinion that it is a fit case to exercise the powers under Section 439 of Cr.P.C. The said case is under investigation. If the petitioner is released on bail by imposing stringent condition, no prejudice would be caused to the prosecution.

9. In view of the above discussion, I proceed to pass the following:

ORDER The criminal petition is allowed. Consequently, the petitioner shall be released on bail in connection with Crime No.77/2023 of Sub-Urban Police Station, Kalaburagi for the offence punishable under Section 395 of IPC on the following conditions: i. The petitioner shall execute his personal bond for a sum of Rs.2,00,000/- (Rupees Two Lakh Only) with one surety for the like-sum to the satisfaction of the jurisdictional Court.

CRL.P No. 200342 of 2023 ii. The petitioner shall not indulge in tampering the prosecution witnesses; iii. The petitioner shall appear before the jurisdictional Court on all the future hearing dates, unless exempted by the Court for any genuine cause.

Sd/-

JUDGE RSP