

Karnataka High Court

Amair Shaikh S/O Shaikh Shabbeer ... vs The State on 27 April, 2023

Bench: Ashok S. Kinagi

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CRL.P No. 200296 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.200296 OF 2023

BETWEEN:

AMAIR @ SHAIKH AMAIR
S/O SHAIKH SHABBEER AHEMAD
AGE: 21 YEARS, OCC: STUDENT
R/O QAMAR COLONY, OPPOSITE MILAT NAGAR
NEAR BANDENAWAJ MASJID, JAHED APARTMENT
KALABURAGI-585103

...PETITIONER

(BY SRI NANDKISHORE BOOB, ADVOCATE)

AND:

THE STATE THROUGH ROZA PS, KLBRG
NOW REPRESENTING BY

Digitally signed

ADDL. SPP, HCKB AT KALABURAGI

by SWETA
KULKARNI

...RESPONDENT

Location: HIGH
COURT OF
KARNATAKA

(BY SRI SHARANABASAPPA M. PATIL, HCGP)

THIS CRIMINAL PETITION IS FILED U/S. 439 OF CR.P.C.
PRAYING TO RELEASE THE PETITIONER/ACCUSED NO.3 ON
BAIL IN CRIME NO.92/2022 OF ROZA POLICE STATION, DIST.
KALABURAGI, FOR THE OFFENCES PUNISHABLE U/SEC. 143,
147, 148, 341, 323, 307, 302, 504, 506, 120(B) R/W SEC. 149
OF IPC, PENDING BEFORE THE PRL. CIVIL JUDGE AND JMFC
COURT KALABURAGI (C.C.NO.1321/2023).

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

ORDER

The petitioner has filed this petition seeking to enlarge him on bail in Crime No.92/2022 of Roza Police Station, Kalaburagi, for the offences punishable under Sections 143, 147, 148 341, 323, 307, 302, 504, 506 and 120B read with Section 149 of Indian Penal Code, 1860 (for short, 'IPC').

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

It is the case of the prosecution that in connection with previous enmity on 15.11.2021 at about 10.30 a.m., all the accused persons forming themselves into unlawful assembly in prosecution of their common object, started quarreling with the victim and abused him in filthy language and he has been assaulted over the chest and fisted over the abdomen. The accused have also assaulted his son with iron rod, when his son came to the spot to CRL.P No. 200296 of 2023 rescue them, accused No.4 has assaulted his father. When the informant's son attempted to save them, accused No.4 stabbed with knife over the back of his son and caused bleeding injuries. Immediately he fell on the ground. When people rushed to the spot, all the accused ran away from the spot and thereafter, his son was shifted to the hospital for treatment. Accused No.1 and other having love affairs with his brother's daughter and they have attempted to kill him and family members with knife and iron rod. Subsequently, after the death of the victim during treatment, Section 302 of IPC has been included against the accused. This petition is filed by accused No.2.

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

4. The learned counsel for the petitioner submits that the petitioner is student, studying in 10th standard. He further submits that there are no allegations made out against this petitioner. He further submits that it is the CRL.P No. 200296 of 2023 case of the prosecution that this petitioner has assaulted C.W.1 and his son over the private part and abdomen and he submits that this petitioner has not assaulted the victim by using any weapons. It is further submitted that it is the case of the prosecution that this petitioner has assaulted on abdomen with hands. Hence, he submits that there are no allegations against this petitioner in the complaint and on these grounds, he prays to allow the petition.

5. Per contra, learned High Court Government Pleader submits that there are eyewitnesses in the case. He further submits that this petitioner has assaulted the complainant and his son. Hence, he prays to reject the petition.

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

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7. From perusal of the records, it discloses that the petitioner has not used any weapons. He has assaulted with hands and also from perusal of the charge sheet, it discloses that there is no overt act by this petitioner. The police have filed the charge sheet. Now the presence of the petitioner does not require for investigation. Having considered that the petitioner is student studying in 10th standard and gravity of the offence and allegations made against the petitioner, this Court is of the opinion it is a fit case to exercise the power under Section 439 of Cr.P.C.

8. 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.92/2022 of Roza Police Station, Kalaburagi for the offences punishable under Sections 143, 147, 148 341, 323, 307, 302, 504, CRL.P No. 200296 of 2023 506 and 120B read with Section 149 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 two sureties for the like-sum to the satisfaction of the jurisdictional Court.
- 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.
- iv. The petitioner shall not leave the jurisdiction of the Court without prior permission till the disposal of the case.

Sd/-

JUDGE RSP