

(2012) 09 KAR CK 0167
In the Karnataka High Court
Case No : Criminal Petition No. 15735 of 2012

Afroz Ali Pale and Ahmed Ali

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 12-09-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439
Penal Code, 1860 (IPC) — Section 302, 34

Citation : (2012) 09 KAR CK 0167

Hon'ble Judges : A.S. Pachhapure, J

Bench : Single Bench

Advocate : Hema L.K, for the Appellant; Anuradha M. Desai, Addl. SPP, for the Respondent

Judgement

A.S. Pachhapure

1. The petition is filed u/s 439 of Cr. P.C. seeking bail having been arrested for the charge u/s 302 R/w. Sec. 34 of IPC. The complainant was informed that on 02.05.2012 at about 8.30 a.m., a dead body of a male was lying near Hazipur Dargah and when he came and identified it as that of his father Abdulgani Sab. A bloodstained stone was lying by the side of the body. On the date of the incident he was alone in the house and was in the habit of consuming liquor. It is in these circumstances that he submitted a complaint to the police against unknown persons having caused the death of his father. During the course of investigation the petitioners have been arrested.

2. The learned counsel for petitioners seek permission to withdraw the petition in so far as the first petitioner is concerned and claims that the second petitioner is the third accused and father of the first petitioner and there is no role attributed against the second petitioner in the incident. She prays for grant of bail. So far as the second petitioner is concerned, the learned Additional SPP opposed the application and submits that there are strong circumstances on record to connect the petitioners with the crime and in case if second petitioner is released on bail,

he may tamper the witnesses.

3. Admittedly, second accused has been granted bail by this Court in Crl. P. No. 15601/2012 vide order dated 20.07.2012. The allegation against the second accused is that he was watching the scene. So far as the second petitioner is concerned, the facts reveal that he instigated the first petitioner and his friend to kill Abdulgani Sab. Taking into consideration the fact that there is no active participation of the second petitioner in this incident, he is also entitled to the bail sought for on the ground of parity. In the result the petition is partly allowed. The petition in so far as the first petitioner is concerned, is dismissed as withdrawn and the second petitioner is ordered to be released on bail on his executing personal bond for Rs. 50,000/- with two solvent sureties for the like sum to the satisfaction of Court below with further following conditions:

i) That the second petitioner shall attend the police station on every Sunday in between 10.00 a.m. to 11.00 a.m. until further orders.

ii) The second petitioner shall not tamper with the prosecution witnesses in any manner.

iii) He shall not jump bail.

If any of the conditions are violated, the bail granted entails cancellation.

Intimate the concerned authority.

The first petitioner is at liberty to approach the Sessions Court as the charge sheet is said to have been filed.