

(2012) 11 KAR CK 0078
In the Karnataka High Court
Case No : Criminal Petition No. 16063 of 2012

Irappa Kolakar

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 16-11-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 437, 439
Penal Code, 1860 (IPC) — Section 109, 143, 147, 302, 436

Citation : (2012) 11 KAR CK 0078

Hon'ble Judges : C.R. Kumaraswamy, J

Bench : Single Bench

Advocate : R.S. Lagali, for the Appellant; Anuradha M. Desai, Addl. SPP, for the Respondent

Final Decision : Allowed

Judgement

C.R. Kumaraswamy

1. This criminal petition is filed u/s 439 of Cr.P.C. by the advocate for the petitioner praying that this court to release the petitioner on bail in connection with Managuli police station Crime No. 13/2012 pending on the file of II Addl. Sessions Judge, Bijapur, which is registered for the offences punishable under Sections 143, 147, 148, 109, 436, 323, 302 read with Section 149 of Indian Penal Code. I have heard the learned counsel for the petitioner as well as the learned Addl. State Public Prosecutor. Learned State Public Prosecutor has filed objection statement.

2. The contents of FIR found in the record discloses that the Managuli police have registered a case in Crime No. 13/2012 against accused Nos. 1 to 21 for the offences punishable under Sections 143, 147, 148, 109, 436, 323, 302 read with Section 149 of Indian Penal Code on the complaint of Basavaraj. It is alleged in the complaint that accused formed themselves into unlawful assembly. Due to previous enmity they picked up quarrel with the father of the complainant and when the complainant went inside the house and closed the door, they climbed

roof of the house and damaged the roof of the house of the complainant with the aid of axe, spade and other weapons, poured kerosene and petrol and set fire to the house of the complainant. Consequently the complainant's father Yallappa died due to burn injuries.

3. The present petitioner is accused No. 3. According to the averments made in the complaint, the role played by this petitioner is that he uttered that the complainant's father went inside the house, besides he damaged the roof of the house. Except this, no other overt-act is attributed against this petitioner. However, during the course of investigation, statement of the witnesses were recorded. The averment made in the complaint and statement of witnesses which were recorded on the same day reveals that this petitioner has uttered that the complainant's father went inside the house and damaged the roof of the house. Not much weightage can be given to the statement of witnesses while considering the bail petition. Petitioner is aged about 66 years. u/s 437 of Cr.P.C. the aged persons are entitled for bail. Therefore, considering the age of the petitioner and since the role played by this petitioner is that he uttered the word that complainant's father went inside the house. He also damaged the roof of the house. Except this no other allegations made against this petitioner. Therefore, considering the facts and circumstances of the case, I am of the opinion that this is a fit case to grant bail to the petitioner. In the result, I pass the following:

ORDER

This Criminal Petition is allowed conditionally.

Petitioner is granted with bail. The petitioner shall be released on bail in Cr. No. 13/2012 of Managuli Police Station, on his executing a personal bond for a sum of Rs. 50,000/- with two sureties for the like sum to the satisfaction of the learned II Addl. Sessions Judge in S.C. No. 77/201.2 on the following conditions;

- i) Petitioner shall not tamper with the prosecution witnesses in any manner.
- ii) He shall not jump the bail.

If any condition is violated, bail entails cancellation.