

(2012) 09 KAR CK 0256
In the Karnataka High Court
Case No : Criminal Petition No. 15871 of 2012

Rajappa Joller, Eshappa Joller and Mallappa
Vs

APPELLANT

The State

RESPONDENT

Date of Decision : 10-09-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 307

Citation : (2012) 09 KAR CK 0256

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

Bench : Single Bench

Advocate : Chaitanyakumar Chandriki, for the Appellant; Anuradha M. Desai, Addl. SPP, for the Respondent

Judgement

A.S. Pachhapure

1. The petitioners having been arrested on the charge u/s 307 of IPC and other allied offences have approached this Court for regular bail. The facts relevant for the purpose of this petition in brief are as under:

The daughter of the first petitioner by name Mariala eloped with the son of the complainant by name Luka and they married about a year prior to this incident. The said marriage was against the will of the petitioners and without their consent therefore, the second petitioner being the son of the first petitioner and third petitioner being a relative with other accused formed an unlawful assembly and on 09.07.2012 at about 5.45 p.m. they went to the house of the complainant by abusing her that her son eloped with Mariala. The first petitioner is said to have caused the assault with an axe on the lower limb and the complainant sustained fracture. The second petitioner is said to have assaulted with stick whereas the third petitioner slapped on her cheek. The complaint of this incident was submitted by the injured to the police on the same day. During the investigation, the petitioners are arrested.

2. The learned counsel for the petitioners submit that he would withdraw the

petition of the first petitioner and so far as petitioner Nos. 2 and 3 are concerned, as the part alleged against them is assault with stick and slapping, he contends that there was no motive to cause serious offence like the one u/s 307 of IPC therefore, he submits to grant the bail. The learned Additional SPP has opposed the application.

3. Perusal of the material placed on record would reveals that the second petitioner caused assault with stick and there appears to be swelling on the thigh region. So far as the third petitioner is concerned, it is only slapping on the cheek of the complainant and he is said to have kicked on the abdomen. It cannot be said that they have any intention to cause the death, considering the fact that the presence of petitioner Nos. 2 and 3 is not necessary for the purpose of investigation as they are in judicial custody, I am of the opinion that petitioner Nos. 2 and 3 are entitled to the bail sought for. In the result the petition is allowed in part. The request of the first petitioner is dismissed as withdrawn and petitioner Nos. 2 and 3 are ordered to be released on bail on their executing personal bond for Rs. 50,000/- each with one solvent surety for the like sum to the satisfaction of JMFC with further following conditions:

1. That the petitioner Nos. 2 and 3 shall attend the police station on every Sunday in between 10.00 a.m. to 11.00 a.m. until filing of the charge sheet.
2. The petitioner Nos. 2 and 3 shall not tamper with the prosecution witnesses in any manner.
3. They shall not jump bail.
4. If any of the conditions are violated, the bail granted entails cancellation.

Intimate the concerned authority.