
(2020) 12 RAJ CK 0154

In the Rajasthan High Court

Case No : Criminal Miscellaneous II Bail Application No. 15171 Of 2020

Banwari Lal Bairwa

APPELLANT

Vs

State Of Rajasthan

RESPONDENT

Date of Decision : 18-12-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 161, 164, 439
Indian Penal Code, 1860 — Section 376

Citation : (2020) 12 RAJ CK 0154

Hon'ble Judges : Mahendar Kumar Goyal, J

Bench : Single Bench

Advocate : Sanjay Sharma, Atul Sharma

Final Decision : Allowed

Judgement

The present second bail application has been filed under Section 439 Cr.P.C. The petitioner has been arrested in connection with FIR No.176/2020

registered at Police Station Bapcha, District Baran for the offence(s) under Section(s) 376 of I.P.C.

Learned counsel for the petitioner submitted that after dismissal of the first bail application as withdrawn by this Court vide its order dated 18.11.2020,

charge-sheet has been filed on 24.11.2020 and hence, this second bail application.

Learned counsel for the petitioner submitted that he has falsely been implicated in this case by the prosecutrix, a married lady of 26 years of age. He

submitted that there are material contradictions in the FIR, statement of the prosecutrix recorded under Section 161 Cr.P.C. as well as her statement

recorded under Section 164 Cr.P.C. Relying on the affidavit of the prosecutrix dated 02.12.2020, learned counsel for the petitioner submitted that the

matter has been compromised between the parties and the prosecutrix does not want to prosecute the matter further against the petitioner. He

submitted that the petitioner is in custody since 07.09.2020, charge-sheet has been filed, trial of the case will take time, he has no criminal antecedents

and prayed for his release on bail Learned Public Prosecutor has opposed the second bail application. Learned counsel appearing for the complainant

acknowledging the contents of the affidavit dated 02.12.2020 filed by the prosecutrix, submitted that he has no objection if the petitioner is extended

benefit of bail.

Taking into consideration the submissions advanced by learned counsels for the respective parties, the nature of allegations against the petitioner, his

length of custody, filing of the charge-sheet, absence of criminal antecedents and the material available in the charge-sheet; but, without expressing

any opinion on the merits of the case, this Court deems it just and proper to enlarge the petitioner on bail.

Accordingly, the second bail application is allowed and it is directed that accused-petitioner Banwari Lal Bairwa S/o Shri Babu Lal Bairwa shall be

released on bail under Section 439 Cr.P.C. in connection with afore-mentioned FIR registered at concerned Police Station, provided he furnishes a

personal bond in the sum of Rs.1,00,000/- (Rupees One Lac only) together with two sureties in the sum of Rs.50,000/- (Rupees Fifty Thousand only)

each to the satisfaction of the trial Court with the stipulation that he shall comply with all the conditions laid down under Section 437(3) Cr.P.C.