
(2010) 03 RAJ CK 0142

In the Rajasthan High Court

Case No : Criminal Miscellaneous Fourth Bail Application No. 2260 of 2010

Chanda Singh (Smt.)

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 12-03-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 164
Penal Code, 1860 (IPC) — Section 120B, 328, 366, 376

Citation : (2011) 1 RLW 206

Hon'ble Judges : Mahesh Chandra Sharma, J

Bench : Single Bench

Judgement

Mahesh Chandra Sharma, J.—Heard learned Counsel for the accused Petitioner as also learned PP for the State.

2. Brief facts of the case are that prosecutrix Annu lodged a written report at P.S. Shahjahanpur on 13.5.2009 alleging therein that she knows one man Amit since 2000. He came to her contact in April 2008, stated that he knows many persons of Film Industry and snapped her photographs for becoming a heroin. Thereafter he came and stated that he has received a phone call from film industry and you have a chance. On her talks I persuaded and went with him without telling to my parents. He took me to Delhi and gets married with me and thereafter he took me to Calcutta where he detained me in a flat where his mother, father, sister and other family lives. She gave a birth to a body. On 3.5.2009 she got chance, run away, came to her parents, and lodged the report.

3. The police on the basis of this written report registered an FIR No. 117/2009 for the offence under Sections 366, 328, 376 and 120B IPC. During investigation police recorded the statements of the prosecutor u/s 164 Code of Criminal Procedure and arrested the applicant.

4. Thereafter, the accused Petitioner moved first bail application before this Court, which has been dismissed on 7.7.2009. Thereafter, she moved second bail application, which was rejected on 24.10.2009. Thereafter, she again moved

third bail application which was dismissed as withdrawn with the liberty to take into consideration the statements of Smt. Moni and other prosecutions witnesses vide order dated 10.11.2009. Thereafter, the accused Petitioner has moved this fourth bail application.

5. The learned Counsel for the accused Petitioner submits that she is an innocent lady and she has falsely been implicated in the instant case. From the bare perusal of the FIR as also evidence come on record, it is clear that no case is made out against the accused Petitioner for the aforesaid offences. The Police Station Shahjanpur was not having any jurisdiction but the Police of Police Station Kolkata was having jurisdiction in this matter. Marriage of Annu was performed as per Arya Samaj Rites for which there are her photographs, from which it is clear that she was not intoxication condition and was fully conscious. She is in judicial custody since long and she is suffering from Diabetes and pain of Anglin. On 4.11.2009 Smt. Moni has executed an affidavit to the effect that Annu has entered into marriage with the son of the Petitioner and after marriage she was never harassed to tortured by the Petitioner, her son Amit or by any family members of the Petitioner. The statement of Moni was also recorded before the Judicial Magistrate, Bharatpur, in which also she has stated that she want to live with Amit. Thus, this fourth bail application of the accused Petitioner be allowed and the accused Petitioner be released on bail and if not then the accused Petitioner be given liberty to move bail application before the learned trial Court after recording the statements of Annu and Moni.

6. In support of his case, he has placed reliance upon the case of Babu Singh and Others Vs. State of U.P., of which is much relevant, which is reproduced as under:

2. Briefly we will state the facts pertinent to present petition and prayer and proceed thereafter to ratiocinate on the relevant criteria in considering the interlocutory relief of bail. Right at the beginning, we must mention that, at an earlier stage, their application for bail was rejected by this Court on September 7, 1977. But an order refusing an application for bail does not necessarily preclude another, on a later occasion, giving more materials further developments and different considerations. While we surely must set store by this circumstance, we cannot accede to the faint plea that we are barred from second consideration at a later stage. An interim direction is not a conclusive adjudication, and updated reconsideration is not over-turning an earlier negation. In this view, we entertain the application and evaluate the merits pro and con.

7. Learned PP has seriously opposed the aforesaid contentions and submits that after rejection of the third bail application, no subsequent developments have taken place in the matter. Thus, this fourth bail application of the accused Petitioner be rejected.

8. In view of above, I am not inclined to grant fourth bail application of the accused Petitioner, the same is accordingly disposed of with the following directions:

(1) The learned trial Court is directed to record the statements of Annu and Moni, within a period of one month, from the date of receipt a certified copy of this order; or if the charges in the matter have not been framed by the trial Court then it shall record the statements of Annu and Moni, within a period of one month, from the date of framing the charge;

(2) On moving regular bail application by the accused Petitioner before the learned trial Court, it while deciding the same shall take into consideration the statements of Annu and Moni, as also the judgment delivered in the case of Babu Singh and Ors. (supra).

(3) This order will not come in the way of the accused Petitioner as and when the learned trial Court decides the bail application.