

(2018) 12 RAJ CK 0242

In the Rajasthan High Court

Case No : Criminal Miscellaneous Bail No. 6930 Of 2018

Devilal

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 20-12-2018

Acts Referred:

Indian Penal Code, 1860 — Section 143, 379, 427, 458
Code Of Criminal Procedure, 1973 — Section 438

Citation : (2018) 12 RAJ CK 0242

Hon'ble Judges : Vijay Bishnoi, J

Bench : Single Bench

Advocate : Vineet Jain, Ashok Upadhyay, S.K. Verma

Final Decision : Allowed

Judgement

Heard learned counsel for the petitioners, learned Public Prosecutor as well as learned learned counsel for the complainant and also perused the material on record.

The petitioners apprehend their arrest in connection with FIR No.72/2016 of Police Station Jai Narain Vyas Colony, Bikaner, for the offences punishable under Sections 379, 458, 427 and 143 IPC.

Learned counsel for the petitioners has submitted that allegations of house trespassing, theft, voluntarily causing hurt and outraging modesty of woman levelled against the petitioners in the FIR are false. It is submitted that as a matter of fact, the petitioners are in possession of the disputed plot since long and the complainant party had tried to dispossess them from the said plot, however, the petitioners resisted them to do so, then this false FIR has been lodged against the petitioners.

Learned counsel for the petitioners has further submitted that prior to filing of present FIR, an FIR No.68/2016 had already been filed levelling similar allegations against the petitioners, however, this Court while taking into

consideration the fact that Additional Sessions Judge No.2, Bikaner in Criminal Revision Petitions No.12/2016 and 13/2016 preferred on behalf of the petitioners Devi Lal and Sohan Lal against the order of concerned Magistrate whereby the disputed plot was attached and a Receiver was appointed, had granted anticipatory bail to the petitioners. Learned counsel for the petitioners has submitted that in the above referred matter, the revisional court prima facie observed that the petitioners were in possession of the disputed plot prior to the date of incident. Learned counsel for the petitioners has, therefore, submitted that it is a fit case wherein the petitioners may be granted benefit of anticipatory bail.

Learned Public Prosecutor as well as learned counsel for the complainant have vehemently opposed the bail application. It is argued that prima facie case of committing offence as alleged in the FIR is made out against the petitioners, therefore, they are not entitled to get the benefit of anticipatory bail.

Having regard to the totality of the facts and circumstances of the case and having gone through the case diary, without expressing any opinion on the merits of the case, I deem it just and proper to grant anticipatory bail to the accused petitioners under Section 438 Cr.P.C.

Accordingly, this bail application under Section 438 Cr.P.C. is allowed and it is directed that in the event of arrest of the petitioners No.1 Devlal S/o Sh. Rewant Ram and No.2 Sohanlal S/o Sh. Laduram in FIR No.72/2016, Police Station Jay Narain Vyas Colony, Bikaner, they shall be enlarged on bail provided each of them furnishes a personal bond in a sum of Rs.50,000/- with two sound and solvent sureties of Rs.25,000/- each to the satisfaction of the concerned I.O./ S.H.O. on the following conditions:-

- (i) They shall make themselves available for interrogation by Investigating Officer as and when required;
- (ii) They shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer;
- (iii) They shall not leave India without the previous permission of the Court.