
(1961) 12 MP CK 0003
In the Madhya Pradesh High Court
Case No : M. Cr. C. No. 108 of 1961

Dhanna Lalaram Kachi and another APPELLANT
Vs
State of M.P. RESPONDENT

Date of Decision : 06-12-1961

Acts Referred:

Penal Code, 1860 (IPC) — Section 307, 34

Citation : (1962) J LJ 119 : (1962) MPLJ 848

Hon'ble Judges : A.H. Khan, J

Bench : Single Bench

Advocate : J.P. Gupta, for the Appellant; P.L. Dubey, for the Respondent

Final Decision : Allowed

Judgement

A.H. Khan, J.

This is an application for bail by Raja Ram and Dhanna u/s 498, Criminal Procedure Code who stand charged u/s 307 read with section 34, Indian Penal Code. The trial Court rejected their bail application on two grounds. One, that Station Officer of Gohad is of the opinion that if the accused were released on bail, the prosecution witnesses are sure to be influenced. Two, that Bhind is a disturbed area and a relation of the witness is said to have been influenced.

With regard to the first ground, a mere apprehension of the Station Officer that prosecution witnesses would be worth over is not enough. There must be evidence of interference or attempt at interference before the objection can be said to have any weight. The Court has said that "a relation of a witness is said to have been influenced." But what is the evidence of it And which relation has been influenced and in what manner ? There is nothing on the record to show this. The trial Court without considering the petition on merits, has, on insufficient grounds rejected the bail application.

In regard to the second ground, namely, that Bhind is a disturbed area and accused should not, therefore, be released on bail, I would only say that in a

disturbed area, a Judge should not allow himself to become nervous and disturbed. He must maintain his peace and mental equilibrium. And should any Judge in a disturbed area feel mentally disturbed, he should apply for his transfer from that place to another place, where conditions are more congenial and not disturbed. This Court had occasion to make similar observations in Criminal Miscellaneous No. 71 of 1960, reported in 1961 J. L. J. 1341.

Of the two applicants before me, Rajaram should be released on bail because the complainant, who was injured, lodged the first information report, but the name of Rajaram did not appear in it. (2) That none of the witnesses who gave their statements before the police have said that Rajaram was there.

I would, therefore, admit him to bail.

Regarding accused Dhanna, the trial Court in his order has said that it will consider the question of bail after the majority of eye-witnesses have been examined. I shall, therefore, not pass any order on his bail application till the trial Court has passed some order.

In the end I would like to emphasise that the Court before whom the application of bail is presented should examine the case properly before passing an order one way or the other.

For reasons stated above, I direct that if accused Rajaram son of Mohanlal Kachhi executes a bond for Rupees One Hundred only, he shall be released on bail till the decision of the trial Court.