

(2023) 08 RAJ CK 0029

In the Rajasthan High Court

Case No : Criminal Miscellaneous Bail Application No. 683 Of 2023

Ishawar Singh And Others

APPELLANT

Vs

State Of Rajasthan

RESPONDENT

Date of Decision : 08-08-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 302

Citation : (2023) 08 RAJ CK 0029

Hon'ble Judges : Kuldeep Mathur, J

Bench : Single Bench

Advocate : Vikram Singh, A.R. Choudhary

Final Decision : Allowed

Judgement

Kuldeep Mathur, J

This application for bail under Section 439 Cr.P.C. has been filed by the petitioners who have been arrested in connection with No.367/2022 registered at Police Station Bheem, District Rajsamand, for offences under Sections 302 and 34 IPC.

Heard learned counsel for the petitioners and learned Public Prosecutor. Perused the material available on record.

Learned counsel for the petitioners submitted the petitioners have been falsely implicated in the present case. Learned counsel submitted that statements of the complainant Shanta (PW-1) have been recorded before competent criminal court on 03.07.2023. Drawing attention of the Court towards the statements of the complainant, learned counsel submitted that the statements are full of contradictions. Learned counsel submitted that from the perusal of the statements of the complainant, it is evident that initially, she stated that a call was received by her from the present petitioner informing that he has killed her husband-Devi Singh near Bheem Petrol Pump. As per the complainant,

immediately on receiving call from the present petitioner, she reached at the spot where she found her husband lying in pool of blood having sustained injuries on his head. Devi Singh (deceased) as per complainant, informed her that he was assaulted by the present petitioner and one Bhagat Singh. Learned counsel submitted that it is highly improbable that the petitioner after assaulting the deceased-Devi Singh, would make a call to his wife informing about the incident.

Learned counsel submitted that during cross-examination, the complainant informed that at the time when she reached at the place of occurrence, her husband was lying unconscious and was not in position to speak. Attention of the Court was also drawn by the learned counsel towards entry ticket and other medical documents of the deceased issued by Jawahar Lal Nehru Hospital, Ajmer where he was taken for treatment indicating that due to road accident, the deceased had sustained injuries on his head and other parts of the body.

Lastly, learned counsel for the petitioner submitted that FIR was lodged after a delay of two days from the date of alleged incident; there is no evidence of motive on the part of the petitioner to attack/assault the deceased; there are no eye-witnesses of the case. The petitioners are in judicial custody and the trial of the case will take sufficiently long time, therefore, the benefit of bail may be granted to the accused-petitioners.

Per contra, learned Public Prosecutor has opposed the bail application.

Having considered the rival submissions, facts and circumstances of the case and after considering the statements of the complainant-Shanta so also various documents issued by Jawahar Lal Nehru Hospital, Ajmer, this Court prima facie finds that there are number of contradictions in the prosecution story and therefore, without expressing any opinion on merits/demerits of the case, this Court is of the opinion that the bail application filed by the petitioners deserves to be accepted.

Consequently, the bail application under Section 439 Cr.P.C. is allowed. It is ordered that the accused-petitioners (1) Ishawar Singh S/o Dilip Singh Rawat and (2) Bhagwat Singh S/o Dilip Singh Rawat arrested in connection with F.I.R. No.367/2022 registered at Police Station Bheem, District Rajsamand, shall be released on bail, if not wanted in any other case, provided each of them furnishes a personal bond of Rs.50,000/- and two sureties of Rs.25,000/- each, to the satisfaction of learned trial court, for their appearance before that court on each & every date of hearing and whenever called upon to do so till completion of the trial.