

(2024) 08 RAJ CK 1140

In the Rajasthan High Court, Jodhpur Bench

Case No : Criminal Misc. Bail Application No. 9723 Of 2024

Laxman Charan

APPELLANT

Vs

State Of Rajasthan

RESPONDENT

Date of Decision : 21-08-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 389
Negotiable Instruments Act, 1881 — Section 138, 148

Citation : (2024) 08 RAJ CK 1140

Hon'ble Judges : Arun Monga, J

Bench : Single Bench

Advocate : Nrapen Shanker Acharya, Muktiyar Khan

Final Decision : Disposed of

Judgement

Rajendra Prakash Soni, J

1. The prayer made in this bail petition filed under Section 439 of the Code of Criminal Procedure (for short "the Code") is for grant of bail in connection with crime registered pursuant to First Information Report Number 34/2024 of Police Station Javda in respect of offences punishable under Sections 342, 376(2)(f) of the Indian Penal Code, Sections 5(m)/6 of POCSO Act and Sections 3(1)(w), 3(2)(v) of the SC/ST (Prevention of Atrocities) Act.

2. Let me give a very brief factual backdrop to understand the entire matter in the right perspective which is that on 20.06.2024 at around 5:45 PM, the victim Miss "A" aged 11 years along with her mother appeared at the police station and verbally reported that earlier that day around 10:00 AM petitioner Laxman came to her house to sell tarpaulin. He had visited their home on previous occasions as well. On this particular day, her father and Laxman sat together and consumed alcohol. After drinking, her father fell asleep. Laxman then gave Rs. 10 to the victim and asked her to buy a "pouch of gutka" from a nearby shop. On her way back, when she reached near the bathroom, Laxman approached her, forcibly

grabbed her and took her inside the bathroom. He opened her salwar, made her lie down in the bathroom and committed rape with her. When the victim started thrashing her hands and legs, Laxman released her from his grab. She immediately ran away and told her mother about the entire incident. Her mother then informed her father and when her father went towards the bathroom, Laxman fled towards the field. Statements of victim and her parents are yet to be recorded during the trial.

3. To begin at the beginning Shri Jagatveer Singh Deora, learned counsel representing petitioner has fervently argued that the victim initially completely denied the alleged incident of rape in her statements given under section 161 of the Cr.P.C. but later she changed her stance and described the incident of rape with her in her statements under Section 164 of Cr.P.C. Therefore, her statements cannot be trusted. Additionally, the victim and her parents have reached a compromise with the petitioner. Learned counsel for the petitioner has brought this compromise to the attention of the Court. It is further argued that entire allegations so leveled by the complainant against the petitioner is totally false and baseless. With the aforesaid submissions, it was prayed that the present petition be allowed and petitioner may be enlarged on bail.

4. Learned Public Prosecutor has opposed the release of the petitioner on bail at this stage on the ground that the victim has clearly confirmed the incident in her statement given before the Magistrate under Section 164 of the CrPC. It was further argued that keeping in view the gravity of offence alleged to have been committed by him, petitioner does not deserve any leniency. So called compromise cannot be enforced legally in such matter. He thus, craves rejection of the petitioner's bail application.

5. This Court has carefully perused the record as well as considered the submissions made by learned counsels for the parties.

6. Having given anxious consideration to the rival submissions and having examined the record, I am clearly of the view that in a case involving rape with a minor girl, the compromise arrived at by the accused with victim girl and her parents has no legal value and cannot be given effect to. The idea behind is that the law recognises that minors are vulnerable and lack the capacity to make fully informed decisions on their own. In cases of sexual violence against minors, the State steps into act in the best interests of the child, recognising that a minor may not fully understand the implications of a compromise and the family may be influenced by financial incentives. Such compromises often reflect coercion or undue influence rather than a genuine settlement. Otherwise, why would guardians of a girl, who is a victim of such a heinous crime, agree to compromise with the accused. The state has a duty to prosecute such crimes with full rigor, regardless of any private settlement or compromise. Allowing a compromise to affect the legal proceedings would potentially encourage similar offenses. The POCSO Act aims to prioritises the protection of vulnerable individuals and the accountability of perpetrators over any private settlements. Therefore, this

submission of learned counsel for the petitioner is not tenable and is not substantiated by law that matter has been compromised by the parents of the victim.

7. In view of the prima facie material placed on record the allegations leveled against the petitioner, I am of the view that looking to the nature and gravity of the accusation in the instant case, the role attributed to the petitioner and the case set up against petitioner in its entirety, the petitioner is not found entitled to be released on bail prior to recording statement of victim and her parents.

8. In view of the above, I do not find petitioner to be fit for grant of regular bail to the petitioner. Hence, the present petition is dismissed. Any observation made herein above shall have no bearing on the merits of the case.

9. Trial court shall endeavor to record statements of the victim and her parents at the earliest occasion.