

(2024) 10 RAJ CK 1198

In the Rajasthan High Court, Jodhpur Bench

Case No : Criminal Misc. Bail Application No. 10594 Of 2024

Rupa Ram

APPELLANT

Vs

State Of Rajasthan

RESPONDENT

Date of Decision : 08-10-2024

Acts Referred:

Indian Penal Code, 1860 — Section 34, 354(a), 376, 376(D), 376(2)(n), 450
Protection of Children from Sexual Offences Act, 2012 — Section 3(1)(r), 3(1)(s), 3(2)(va)

Citation : (2024) 10 RAJ CK 1198

Hon'ble Judges : Arun Monga, J

Bench : Single Bench

Advocate : Deependra Singh Shekhawat, SR Choudhary, Jaipal Singh

Final Decision : Allowed

Judgement

Rajendra Prakash Soni, J

1. Arrested in furtherance of FIR No. 294/2024, registered at Police Station Abu Road Sadar, District Sirohi, petitioners have filed this application under Section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023 (for short, "BNSS") (Section 439 of old Code) for releasing them on bail. The petitioners are charged for offences punishable under Sections 326(G), 331(3), 190, 189(2), 305, 301, 324(4) of the Bhartiya Nyay Sanhita, 2023 (for short, "BNS").

3. Let me briefly mention the facts germane for disposal of present petition. That on the 18.07.2024 complainant Shankar lodged a report stating that his son Dinesh drives a taxi jeep. On 23.06.2024, his taxi was involved in an accident, resulting in the death of a girl named Jamu, who passed away on 18.07.2024. Following this, the family members of the deceased Jamu who are named in the report, along with 40-50 others, arrived at his house in three vehicles, armed with weapons and carrying Jamu's dead body. Fearing for their safety, the complainant and his family fled. The group trespassed into the complainant's house, vandalized it and set Jamu's body on fire using wood inside the house.

Upon receiving information, the police with the help of the fire brigade extinguished the fire. However, by then the complainant's house, belongings and the dead body had been severely burned. The complainant has suffered significant losses and the group also stole the jewellery belonging to the women of the household. Investigation of the case is still pending.

4. To begin at the beginning Shri Prem Dayal Bohra, learned counsel representing petitioners has fervently argued that both the parties belong to tribal community, which has social customs of "Mautana" and "Chadhotra". It is further argued that the petitioners are innocent persons and a false case has been foisted against them; that entire allegations so leveled by the complainant against the petitioners are totally false and baseless. Concluding submissions, he asserted that petitioners are entitled to be enlarged on bail.

5. Per contra, learned Public Prosecutor has opposed the petition and submitted that offence alleged was committed in a most barbaric manner. There is overwhelming evidence adduced on record which would prima facie point towards the guilt of the applicants; that keeping in view the gravity of offence alleged to have been committed by them, they do not deserve any leniency, rather they need to be dealt with severely. Therefore, petitioners do not deserve to be released on bail.

6. I have given my thoughtful consideration to the arguments advanced by learned counsel for the parties and have perused the record carefully.

7. Having given anxious consideration to the rival submissions and having examined the record, I am clearly of the view that by arriving armed and in large numbers, the petitioners intended to intimidate and terrorize the complainant's family. They set fire to the complainant's house, as well as to the body of the deceased girl Jamu, inside the house of complainant. Burning a dead body in the complainant's residence without performing the proper rites and using the body in such a criminal manner is not only highly disrespectful but was also an act of desecration. The complainant was coerced into following a tribal or customary practice, such as "Motana," which involves compensating or appeasing the family of the deceased in cases of accidental death. It is crucial to note that the alleged act was committed to enforce a harmful practice within the tribal community. The involvement of 40-50 individuals and the blatant act of entering the complainant's home to commit these atrocities demonstrates a profound disregard for the law. Given that the accused were part of a large group, there is a strong likelihood that witnesses, including the complainant, may feel threatened or pressured if the accused are granted bail.

8. In view of the enormous prima facie material placed on record in respect of the applicants, the allegations leveled against the petitioners, I am of the considered view that looking to the nature and gravity of the accusation in the instant case, the role attributed to the petitioners, the antecedents of the applicants and the case set up against petitioners in its entirety, the petitioners

are not found entitled to be released on bail.

9. On these considerations and in view of the aforesaid discussion, I am of the considered opinion that accused have failed to carve out a strong case for bail in their favour. Bail application therefore, is utterly misconceived under law hence deserves to be dismissed. Dismissed accordingly. The above observations shall not be construed as an expression of opinion on merits of the case.