
(1989) 10 RAJ CK 0029

In the Rajasthan High Court

Case No : Criminal Miscellaneous Bail Application No's. 1620 and 1624 of 1989

Pankaj and Another

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 17-10-1989

Acts Referred:

Citation : (1989) 2 WLN 375

Hon'ble Judges : G.K. Sharma, J

Bench : Single Bench

Judgement

G.K. Sharma, J.—Both these bail applications pertain to the same matter and they are disposed by this common order.

2. The prosecution story is that Mst. Farjana in between 21 and 22nd August, 1989 at 1-00 a.m. came running before the house of Deep Singh Jhala and met a Constable Saitan Singh. At that time she was under intoxication and she stated to the Constable that she is the resident of Dhaulka (Ahmed-abad) and one Jhala had done wrong with her and she was going to the house of Pankaj. She was taken to the Police Station and in the morning she was produced before the SHO. When she came in senses she gave a report alleging that by the night train on 21-8-1989 she arrived at Abu Road from Ahmedabad and came to taxi-stand to fetch a taxi for going to Mount Abu where she met one boy named Pankaj. She was in need of some money. Pankaj told her to accompany him and he took her on a motor-cycle to Gandhi Nagar Basti Another boy Kamal also arrived there. All three remained in the room for half an hour then Pankaj took her to a room near Roadways bus stand where Kamal and Dinesh also arrived At that room all took liquor and when she was in intoxication condition she was made naked. All the three had intercourse with her and they also took her photos in naked condition. Then at 10.30 a.m., she was taken to the house of Jhala where they all again took liquor and against her will Jhala also committed intercourse. Then she came out of the house and reported the matter to the Constable who took her to the Police Station. So this was a report submitted by Mst. Farjana. During

investigation her statement was again recorded by the Police and she gave a different statement contradicting her FIR lodged at the Police Station. The entire statement which was subsequently taken by the SHO has been referred in the order by the learned Sessions Judge, Sirohi. The order of the learned Sessions Judge has been read over which clearly indicates that Mst. Farjana has contradicted her FIR lodged at the Police Station on 22-8-1989 at 8.30 a.m. A new story has been developed by her in her subsequent statement about Abu Road. Why she came to Abu Road and at whose instance. It becomes doubtful matter. She had no money when she came to Abu Road from Ahmedabad. Then what ever she has stated in the FIR about committing intercourse by three persons has been contradicted by her subsequent statement. The first incident was taken place with her consent. In the FIR she mentioned that Shri Jhala also committed intercourse with her against her will. But from the subsequent statement it seems that the first act was also against her will and Jhala did not commit any intercourse with her. So all these facts show that Mst. Farjana has not stated honestly either at the time when the FIR was written or when her statement was subsequently taken by the Investigating Officer. Without expressing any opinion about the value of the statement or on the merit of this case I am of this opinion that this is a fit case where anticipatory bail be granted to the petitioners.

3. Both the bail applications are accepted. Petitioners Pankaj, Kamal Kishore and Dinesh Joshi are ordered to be released on bail on furnishing one surety of Rs. 5,000/- and a personal bond of the same amount to the satisfaction of Investigating Officer in FIR No. 203 Police Station Abu Road. Distt. Sirohi on the following conditions: -

(a) that the petitioners shall make themselves available for interrogation by a Police Officer as and when required;

(b) that the petitioners shall not, directly or indirectly, make any inducement, threat or promise by 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; and

(c) that the petitioners shall not leave India without the previous permission of the court.