

(2008) 04 RAJ CK 0145

In the Rajasthan High Court

Case No : Criminal Miscellaneous Bail Application No's. 1285 of 2008, 6004 of 2007

Raju Ram @ Rajendra Prasad and Others

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 03-04-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439

Citation : (2008) 04 RAJ CK 0145

Hon'ble Judges : H.R. Panwar, J

Bench : Single Bench

Advocate : K.R. Meghwal and Mr. Sandeep Mehta, for the Appellant; Ashok Upadhyay, Public Prosecutor and Mr. M.S. Purohit, for the Complainant, for the Respondent

Judgement

H.R. Panwar, J.—Heard learned counsel for the parties. Perused the order impugned and challan papers.

2. It is contended by learned counsel for the petitioners that the deceased made a statement which is her dying declaration in the presence of the medical officer Dr.S.K.Bihani and before recording her statement, the doctor has certified that patient is fit to give statement and after that statement was recorded and in her statement she stated that while preparing the meal at about 10.30 suddenly the gas cylinder caught fire, in the meantime there was a Chimni of kerosene oil which also fell down and kerosene oil and the gas cylinder both caused injuries to her. She has not levelled any allegation against anybody. She stated that at the relevant time, her mother-in-law and husband came running and took her to hospital. The dying declaration recorded by the police bears the signature of Medical Officer Dr.S.K.Bihani as also thumb impression of deceased. According to learned counsel it was an accidental burn injury suffered by the deceased and, therefore, it cannot be said that her death is otherwise than in normal circumstances.

3. Looking to the facts and circumstances of the case more particularly keeping in view the dying declaration which has been certified by the doctor as also Dr.S.K.Bihani certified that the patient was fit to give statement and statement also bears the signature of Dr.S.K.Bihani as also thumb impression of the deceased and the fact that these two petitioners were not even shown present even in the dying declaration, without commenting on the merit of the case, I think it just and proper to enlarge the accused petitioners on bail.

4. Accordingly, both the bail applications filed under Sec.439 Cr.P.C. are allowed and it is directed that petitioners Raju Ram @ Rajendra Prasad s/o Chand Ratan and Sita Ram s/o.Rajendra Prasad be released on bail in FIR No.83/2007 P.S.Dungargarh, district Bikaner, provided each of them executes a personal bond for a sum of Rs.20,000/- with two sound and solvent sureties in the sum of Rs. 10,000/- each to the satisfaction of learned trial court for their appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.