

(1988) 05 RAJ CK 0006

In the Rajasthan High Court

Case No : Criminal Miscellaneous Bail Application No. 860 of 1988

Ram Niwas

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 13-05-1988

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161, 438

Evidence Act, 1872 — Section 27

Penal Code, 1860 (IPC) — Section 380, 457

Citation : (1988) WLN 292

Hon'ble Judges : V.S. Dave, J

Bench : Single Bench

Final Decision : Allowed

Judgement

V.S. Dave, J.—This is an application u/s 438, Cr.PC in a case u/s 457 and 380 IPC. The case started on a report by the Compounonder of Government Dispensary, Baman Gaon district Bundi where the Compounder reported that he was informed by the Chowkidar at 7.00 a.m. about a theft in the night and that one blood pressure instrument, one diagnostic set of ENT and one torch have been removed by somebody. Police registered the case u/s 457 and 380 IPC and commenced the investigation. Compounder Jagdish Kumar reported that he said in the statement u/s 161 Cr. PC that he was first informed by Bhanwar Lal Sweeper at 7.00 a.m. about the theft. Bhanwarlal in turn stated that he learnt it that a theft has been committed in the dispensary so he was called by the Doctor and after that Doctor asked him to call the Compounder. It is thereafter that Jagdish was called. Doctor in turn states that he was informed by a small young boy about the theft on which he called the sweeper and then the Compounder and thereafter they knew that B.P. instrument, torch and diagnostic set have been removed. Statement of one employee of a liquor shop has also been recorded in which he has stated (hat accused was seen in the village on the day of occurrence. It is on this evidence that the accused is sought to be apprehended. No effort has been made by the Investigating Officer to find out

the antecedents of the accused and that he understands in the nature of the instruments which have been removed from the hospital. The important aspect of the investigation of the case should have been that the one who is well conversant with these instruments alone would be committing theft or it could be that who knows the market for the same. Unless a man understands the B P. instrument and diagnostic set of ENT and their utility, the goods are not even worth a penny and no theft in ordinary course would be committed. Therefore, the investigation ought to have been conducted by a seasoned officer with a different angle to find out that it is not a mischief of the persons connected with the hospital. The Investigating Officer has the audacity to mention in the diary again and again when ever it has been called by the Public Prosecutor that in case the accused is granted bail, it will bring bad name to the police and the Courts in the society and the accused would be protected. Writing this sort of language in the diary sent for by the Court is to influence the Court in one way or the other against the person sought to be apprehended and this is an interference in the administration of justice.

2. I, therefore, deem it proper to issue notice of contempt to the Investigating Officer who has mentioned this in his diary at page No. 3 and in his forwarding letter to the Government Advocate and at page No. 25. He should present himself in person and show cause why he should not be punished for contempt.

3. Regarding the bail application, I deem it proper to enlarge the accused petitioner Ramniwas. I, therefore, direct that the SHO/AC/IO, Police Station Maova in FIR No. 15/88 shall, in the event of arrest of the petitioner Ramniwas, release him on bail provided he furnishes a personal bond in the sum of Rs. 2000/- (Rupees two thousand) with one surety in the like amount to his satisfaction on the following conditions--

[a] that the petitioner shall make himself available for interrogation by a Police Officer as and when required;

[b] that the petitioner shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the courts, or any Police Officer, and

[c] that the petitioner shall not leave India without the previous permission of the Court.

4. Copy of this order shall be sent forthwith the Superintendent of Police, Bundi with a direction that the investigation shall be handed over forthwith to an officer not below the rank of Dy. Superintendent of Police and the accused would be called for interrogation and in case he gives any information, recovery in pursuance of the same can be made as such recovery is admissible u/s 27 of the Evidence Act. If the accused does not appear before the Investigating Officer, it will be open to him to obtain warrant from the Magistrate after getting the bail cancelled.