

(2002) 03 AHC CK 0005

In the Allahabad High Court

Case No : Criminal Miscellaneous Application No. 1753 of 2002

Rama Pati Yadav and Others

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 14-03-2002

Acts Referred:

Penal Code, 1860 (IPC) — Section 307, 323, 324, 326, 354

Citation : (2002) CriLJ 3646 : (2002) 4 RCR(Criminal) 15

Hon'ble Judges : B.K. Rathi, J

Bench : Single Bench

Advocate : Ravindra Nath Rai and Ashok Kumar Rai, for the Appellant; A.G.A., for the Respondent

Final Decision : Dismissed

Judgement

B.K. Rathi, J.—The petitioners are accused in Crime No. 968 of 1999. It is alleged that they have already been enlarged on bail for offence under Sections 323, 324, 504, I.P.C. in this crime. That now the charge sheet have also been submitted u/s 326, I.P.C. the request has been made that the petitioners be permitted to file fresh bail bonds for offence u/s 326, I.P.C.

2. I have heard Sri R. N. Rao, learned counsel for the petitioners and the learned A.G.A.

3. The learned counsel for the petitioners has referred to the following decisions :

The first case referred to is Naresh v. State of U.P. 2001 (42) ACC 502. In this case, the F.I.R. was u/s 354, I.P.C. However, on the basis of statement of the prosecutrix, the case was converted u/s 376, I.P.C. In the circumstances, the accused were permitted to continue on the previous bail.

The second case referred to is Smt. Radha Devi v. State of U.P. 2002 (1) JIC 21. In this case the Investigating Officer released the petitioners on bail u/s 437, I.P.C. After the charge sheet, the Magistrate ordered the petitioners to apply

again for bail. In the circumstances, this Court has directed the petitioner to continue on old bail bond.

The last case referred to is Yaqoob v. State of U.P. 2001 (1) JIC 735. In this case, the accused were released on bail for offences under Sections 324, 506, I.P.C. Charge sheet was also submitted u/s 324, 506, I.P.C. However, without obtaining permission, the Investigating Officer filed another charge sheet under Sections 307, 506, I.P.C. Therefore, this Court ordered that the petitioner may be permitted to continue on bail on furnishing of the fresh bail bonds.

4. After carefully considering the law laid down in above cases, I. am of the view that none of the decisions has any application to the facts of the present case. In the present case, the F. I. R. was registered for offence under Sections 323, 324, I.P.C. All the offences were bailable and therefore, the petitioners were granted bail as of right. It does not appear that at that time the injury report were considered. Subsequently, the injury of the abdomen of Ramput which was caused by sharp edged weapon was found to be grievous. Therefore, the case was converted u/s 326, I.P.C. and charge sheet for offence u/s 326, I.P.C. was submitted.

5. The earlier bail granted to the petitioners was granted in the absence of the injury report, supplementary report and the X-ray report, which have been prepared subsequent to the grant of bail.

6. Considering the seriousness of the injuries, the petitioners cannot be permitted to continue on the same bail bonds. They will have to apply for fresh bail for offence u/s 326, I.P.C.

7. With this observation, the petition is dismissed.