
(2021) 01 RAJ CK 0068
In the Rajasthan High Court

Case No : Criminal Miscellaneous Bail Application No. 14640, 15247 Of 2020

Sirdar @ Rujja

APPELLANT

Vs

State Of Rajasthan

RESPONDENT

Date of Decision : 06-01-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 161, 437(3), 439

Indian Penal Code, 1860 — Section 143, 147, 148, 149, 302, 308, 323, 338, 341, 447

Citation : (2021) 01 RAJ CK 0068

Hon'ble Judges : Mahendar Kumar Goyal, J

Bench : Single Bench

Advocate : Girish Khandelwal, S.S. Ola

Final Decision : Allowed

Judgement

The present bail applications have been filed under Section 439 Cr.P.C. The petitioners have been arrested in connection with FIR No. 0225/2020

registered at Police Station Laxmangarh, District Alwar for the offence under Section(s) 143, 323, 341, 447 & 308 of IPC and later on accused-

petitioner no.1 Sirdar @ Rujja for the offence under Section(s) 147, 148, 149, 338 & 302 of IPC and accused-petitioner no.2 Shaukin for the offence

under Section(s) 143, 341, 323, 336 & 302 of IPC.

It is contended by the learned counsel for the petitioners that the fatal injury on the person of deceased Ashu has not been attributed to the present

petitioners. He submitted that the FIR has not been lodged by eye witnesses as is apparent from its contents as well as statement of complainant Azad

recorded under Section 161 Cr.P.C. in which he has not reiterated the allegation of inflicting injury by axe on the person of deceased by the accused-

petitioner Sirdar @ Rujja. Drawing attention of this Court towards the statements

of the injured eye witnesses Mushtaq and Jakira as well as other prosecution witnesses recorded under Section 161 Cr.P.C, learned counsel for the petitioners submitted that none of the witnesses has attributed fatal injury to the present petitioners. He submitted that only lathi has been recovered at the instance of the petitioners who are in judicial custody. Learned counsel submitted that investigation as against the petitioners is complete, trial of the case will take time, co-accused Rustam and Hasti have been extended benefit of bail by a co-ordinate Bench of this Court and prayed for their release on bail.

Opposing these bail applications, learned Public Prosecutor assisted by Smt. Madhav Mitra and Mr. Vafik Choudhary, learned counsels representing the complainant submitted that the petitioners were active members of unlawful assembly which caused death of Ashu in furtherance of their common object. It was contended by Mr. Madhav Mitra that the investigating agency was hand in glove with the accused party and has recovered lathi only at the instance of petitioner Sirdar @ Rujja whereas there was specific allegation against the petitioners in FIR of inflicting injury on the deceased with axe. They submitted that in view of grave allegation against the petitioners, they do not deserve indulgence of bail.

Taking into consideration the submissions advanced by learned counsels for the respective parties, the nature of allegations against the petitioners, their length of custody, the material available in the charge sheet and release of co-accused person on bail by a co-ordinate Bench of this Court; but, without expressing any opinion on the merits of the case, this Court deems it just and proper to enlarge the petitioners on bail.

Accordingly, these bail applications are allowed and it is directed that accused-petitioners 1. Sirdar @ Rujja Son Of Sultan Khan and 2. Shaukin Son

Of Dalmira shall be released on bail under Section 439 Cr.P.C. in connection with afore- mentioned FIR registered at concerned Police Station,

provided each of them shall furnish a personal bond in the sum of Rs.1,00,000/- (Rupees One Lac only) together with two sureties in the sum of

Rs.50,000/- (Rupees Fifty Thousand only) each to the satisfaction of the trial Court with the stipulation that they shall comply with all the conditions

laid down under Section 437(3) Cr.P.C.