
(2019) 05 RAJ CK 0154

In the Rajasthan High Court

Case No : Criminal Miscellaneous Bail Application No. 5703 Of 2019

Suresh @ Tufan

APPELLANT

Vs

State Of Rajasthan

RESPONDENT

Date of Decision : 17-05-2019

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 201, 323, 302, 427
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2019) 05 RAJ CK 0154

Hon'ble Judges : Vijay Bishnoi, J

Bench : Single Bench

Advocate : RK Charan, SK Bhati

Final Decision : Allowed

Judgement

Heard learned counsel for the petitioner as well as learned Public Prosecutor and also perused the material on record.

The petitioner has been arrested in FIR No.224/2018 of Police Station Basni, District Jodhpur for the offences punishable under Sections 302, 201, 323, 427 and 120-B IPC. He has preferred this bail application under Section 439 Cr.P.C.

Learned counsel for the petitioner has submitted that after framing of charge against the petitioner, statements of two eye witnesses namely Tara Chand and Ghanshyam have been recorded as PW-1 and PW-2 respectively before the trial court. It is submitted that both of them have not supported the prosecution story and turned hostile. It is argued that both the witnesses have specifically stated before the trial court that they do not know who assaulted the deceased. They asserted that when 6 or 7 persons had approached the deceased, they ran away from the scene of crime and returned later but by that time, the persons who had assaulted the deceased, ran away. Learned counsel for the petitioners has further submitted that police have filed charge-sheet against the petitioners only on the basis of statements of above named eye-witnesses recorded during the

course of investigation, in which, they have named the petitioners as assailants along with co-accused persons. Learned counsel for the petitioner has argued that now when the above named two eye-witnesses have not supported the prosecution story and not named the petitioners in their court statements, it would be very difficult for the prosecution to prove the guilt of the petitioner.

Learned counsel for the petitioner has also submitted that co-accused persons namely Madan Khot @ Madan Lal, Sanjay Bhagyani @ Lambu, Harsh Vaishnav @ Abhishek and Suresh Sargara have already been enlarged on bail by this Court.

Learned Public Prosecutor has opposed the bail application. Having regard to the totality of the facts and circumstances of the case, without expressing any opinion on the merits of the case, I deem it just and proper to grant bail to the accused petitioner under Section 439 Cr.P.C.

Accordingly, this bail application filed under Section 439 Cr.P.C. is allowed and it is directed that petitioner Suresh @ Tufan S/o Bheru Lal shall be released on bail in connection with FIR No.224/2018 of Police Station Basni, District Jodhpur provided he executes a personal bond in a sum of Rs.50,000/- with two sound and solvent sureties of Rs.25,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.