

Suresh Kumar Singh and ors. Vs. State of U.P. and anr.

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Court : Allahabad

Decided On : Nov-24-1995

Reported in : 1996CriLJ1527

Judge : Girdhar Malviya, J.

Acts : Indian Penal Code (IPC) - Sections 307 and 324; Code of Criminal Procedure (CrPC) , 1974 - Sections 437

Appeal No. : Crl. Misc. Case No. 633 of 1995

Appellant : Suresh Kumar Singh and ors.

Respondent : State of U.P. and anr.

Advocate for Def. : G.A.

Advocate for Pet/Ap. : R.S. Tiwari, Adv.

Disposition : Application dismissed

Judgement :

ORDER

Girdhar Malviya, J.

1. Heard learned counsel for the petitioners and perused the record.

2. Arguments raised by the learned counsel for the petitioners is that once the Magistrate in a case under Section 307, IPC has granted bail considering the offence to be only under Section 324, IPC the Sessions Judge should not have entertained the application for cancellation of bail by treating it to be under Section 307, IPC. The facts of this case that need to be mentioned is that in the incident giving rise to this case fire arm injuries were caused to the victim. Section 307, IPC says that if by the act hurt is caused to any person the offender shall be liable either to imprisonment for life or to such punishment as mentioned in the Section earlier. Section 437, Cr. P.C. visualises that the Magistrate cannot grant bail in cases where there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life. Under Section 307, IPC once injury is caused the offence may be ultimately found to be under Section 307, IPC which may also be punishable with imprisonment for life. The analogy from Section 324, IPC that an injury caused by a firearm may also amount to an offence under Section 324, IPC is of no consequence at this stage. The bail has been granted by the Magistrate treating the injury to be hardly amounting to an offence under Section 324, IPC cannot be justified. There could have been no objection to the bail had it been granted to the applicants by the Sessions Judge, but such an exercise by the Magistrate cannot be condoned.

3. Accordingly this application is dismissed.

4. It will be open for the Sessions Judge to consider the bail application if it is moved by the applicants Under Section 307, IPC before him.

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