

Ratansingh Nihalsingh and ors. Vs. the State

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Court : Madhya Pradesh

Decided On : Feb-05-1959

Reported in : AIR1959MP216; 1959CriLJ723

Judge : A.H. Khan, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 496

Appeal No. : Criminal Misc. Case No. 9 of 1959

Appellant : Ratansingh Nihalsingh and ors.

Respondent : The State

Advocate for Def. : Govt. Adv.

Advocate for Pet/Ap. : Dey, Adv.

Judgement :

ORDER

A.H. Khan, J.

1. This is an application under Section 498 of the Criminal Procedure Code by five accused, who are said to have been challaned under Sections 395 and 397 of the Indian Penal Code. Their application for bail was dismissed by the Special Judge, Morena.

2. The right to be at liberty is a valuable right and when an application is given for bail, it is this valuable right which the accused seeks from the Court. Such applications are not to be mechanically or perfunctorily dismissed. After seeing the record, the Court must apply its mind to the facts of the case and then decide whether or not the accused should be given his freedom till the decision of the case. What I find is that the lower Courts instead of applying their minds to the case, often make a trite observation that the offence being a serious one, the accused need not be released on bail.

3. The accused, in this case, were arrested on 17-4-58 and kept in custody for about 2 months after which an identification parade was arranged. I should not like to express any opinion on the value of such identification. But I understand that the alleged dacoity was committed on a dark-night near about mid-night, when it was Badi 13 and the moon was in the last stages of waning.

4. Furthermore, I find that out of the five accused who are seeking bail before me, only from the possession of Matua s/o Madina, three ornaments have been recovered and these are said to constitute looted property. First of all, Chooria Chandi weighing about fourteen tolas and valued at Rs. 28A was recovered. But from the First Information Report, it appears that the Chooria alleged to have been taken away weighed Rs. 20/- and its cost was put down at Rs. 40/-.

The next recovery is of Murra weighing 5 or 9 rupees and valued at Rs. 8/-. But in the list of looted property, Murra weighed Rs. 25/- and was valued at Rs. 50/-. As for the recovery of Kangna. its name is not to be found in the list of looted property at all. From other accused before me, nothing has been recovered at all. In these circumstances, I think it is a proper case in which the accused should be admitted to bail.

5. I sent for the record and from the perusal of it, I find that the Police has not been acting according to law. In such cases, it is the duty of the Court to see that the Police follows the law. An instance in point is that according to Section 173 (1) (a) of the Criminal Procedure Code, the police should forward a report to the Court setting forth names of the parties, the nature of the information and the names of the persons who appeared to be acquainted with the circumstances of the case.

But the Challan filed by the Police on 2-9-1958 (which is on the record in the file of the Special Judge) honours the law more in the breach than in observance. The names of the witnesses are not given and three times, the Court asked the Public Prosecutor to furnish a list of witnesses and thrice he failed to do so. Such delaying attitude both on the part of the Police and the Public Prosecutor cannot be condemned in terms sufficiently strong.

6. For reasons stated above, I direct that if the accused execute bonds for Rs. 1000/- each and furnish security for the like amount, to the satisfaction of the Court, they shall be released on bail till the decision of the case.

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