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Court : Rajasthan

Decided On : Dec-20-1989

Reported in : 1990WLN(UC)61

Judge : I.S. Israni, J.

Appeal No. : S.B. Cr. Misc. 2nd Bail Application No. 3768 of 1989

Appellant : Mahadev

Respondent : State of Rajasthan

Advocate for Pet/Ap. : Shri. N.A. Naqvi

Disposition : Application allowed

Judgement :

I.S. Israni, J.

1. Heard both the parties and perused the file.

2. It is contended by Shri N.A. Naqvi, learned Counsel for the petitioner that earlier an application was filed by the petitioner from jail which was decided on 10-7-1989 by this Court In this order it was directed by this Court that since only Investigating Officer remains to be examined for whom several adjournments have been made, he should be examined without further delay and the trial should be completed

within a period of two months from the date of the order. It is also pointed out by the learned Counsel that an application Under Section 311 Cr. PC was filed by the State for additional evidence which was dismissed on 20-10-1989 but still the trial has not been concluded. The petitioner is in jail since last about 42 months.

3. Shri K.N. Shrima, learned Additional Government Advocate submits that since the evidence has already been recorded the matter can be heard and disposed early. Therefore, in these circumstances the petitioner does not deserve to be released on bail. He has placed reliance on *Shahzad Hasan Khan v. Ishtiaq Hasan Khan and Anr.* This was a case in which the trial court was not completed within the period directed by the Court on account of which bail was granted to the accused-person. From para 6 it is evident that in this case the accused-person had been taking adjournment after adjournment on account of which the trial was delayed. Therefore, the Apex Court reversed the order of grant of bail.

4. In this case there is no such allegation that the petitioner has caused any delay during the course of trial. He has been languishing in jail since more than 3 years and still the trial is not complete. It is expected that when a person is in jail and his liberty has been curtailed for such a long period there should be no unnecessary delay in completing the trial. Even though the evidence of the prosecution has been closed still the trial hanging fire only for hearing arguments and deciding the case which has not been done in spite of direction dated 10-7-1989 given by this Court. Instead of two months now about 4/1-2 months have passed away.

6. In the circumstances, I am of the opinion that the petitioner deserves to be released on bail. Petitioner Mahadev S/o Shri Sobhraj Singh be released on bail provided he furnishes a personal bond in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties in the sum of Rs. 5,000/- (Rupees Five Thousand) each to the satisfaction of the trial court with the stipulation to appear in that court as and when called upon to do so during the pendency of the trial against him in this case.