

Narayan Lal Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jul-20-2004

Reported in : RLW2004(4)Raj2160; 2004(4)WLC658

Judge : N.N. Mathur, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 439; Narcotics Drugs and Psychotropic Substances Act, 1985 - Sections 37(1)

Appeal No. : S.B. Criminal Misc. Bail Petition No. 2009 of 2004

Appellant : Narayan Lal

Respondent : State of Rajasthan

Advocate for Def. : J.P.S. Choudhary, Public Prosecutor

Advocate for Pet/Ap. : Manish Pitaliya, Adv.

Disposition : Application dismissed

Judgement :

N.N. Mathur, J.

1. The instant application has been filed by petitioner Narayan Lal under Section 439 Cr.P.C. for grant of bail. He is facing trial for offence under Section 8/18, 8/29 of the N.D.P.S. Act.

2. It is contended by the learned counsel that as no recovery has been made from the petitioner, he is entitled to be released on bail. The learned counsel has placed reliance on the order of this Court dated 19.6.2003 passed in S.B. Criminal Misc. Bail Application No. 1907/2003, wherein in such circumstances the court granted anticipatory bail under Section 438 Cr.P.C. He has also placed reliance on another order dated 20th January, 2003 passed in S.B. Criminal Misc. Bail Application No. 348/2002. In the said case the bail was granted on the ground that the evidence of the co-accused recorded by the police was not admissible in evidence and there was no other evidence except of the co-accused. In another order dated 17.6.2003 rendered in S.B. Criminal Misc. Bail Application No. 1890/2003 the court found that the accused was sought to be impleaded on the basis of interrogation of the co-accused. The court accepting the contention of the counsel to the effect that the information given by the co-accused against the applicant accused was not admissible in evidence and hence it was found to be a fit case for bail. The learned counsel has also placed reliance on *Bhinya Ram v. The State of Rajasthan* (1), and *Mangi Lal v. The State of Rajasthan* (2).

3. I have carefully gone through all the orders referred to by the learned counsel. With utmost respect, the view taken by the learned Judge in the aforesaid cases runs counter to the various decisions of the Apex Court.

4. In *Narcotics Control Bureau v. Dilip Pralhad Namade* (3), the Court considering the limitation provided under Section 37(1)(b) of the N.D.P.S. Act held that 'Reasonable grounds' means some thing more than prima facie ground. It contemplates substantial probable cause for believing that the accused is not guilty of the offence alleged and is not likely to commit any offence while on bail. The technical ground as to the non- compliance of the certain provisions of the N.D.P.S. Act cannot be permitted to be addressed at the stage of bail. In the said case the Apex Court set aside the order of the High Court granting bail. The accused was directed to surrender to custody.

5. The Apex Court again in *Union of India v. Mahboob Alam* held that the co-accused has been granted bail cannot be a ground to release the applicant on bail pertaining to an offence under the N.D.P.S. Act. In this case again the Supreme

Court set aside the order of the High Court granting bail and remanded the accused to custody. Unfortunately, the lenient view taken in last few years has defeated the laudable purpose of the N.D.P.S. Act, to make the society drug free. Sincere effort is required to be made to minimize if not eradicated the drug menace.

6. Considering all the facts and circumstances of the case, I do not consider it to be a fit case for grant of bail. The Bail Application stands dismissed.

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