

Shankar Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Nov-02-1988

Reported in : 1989WLN(UC)245

Judge : Mohini Kapoor, J.

Appeal No. : S.B. Cr. Misc IIInd Bail Application No. 2729 of 1988

Appellant : Shankar

Respondent : State of Rajasthan

Disposition : Application allowed

Judgement :

Mohini Kapoor, J.

1. This is a third bail application by the petitioner. Earlier two were dismissed and now challan has been filed. The case of the accused is that prosecutrix Phoolibai was unhappy with her-in-laws and was involved with the petitioners and accompanied him and wanted to marry him to this effect she has also prepared an affidavit which was attested before Notary Public at Khetri. Her age, according to medical opinion is about 16 years. It has been pointed out that she has given divergent statement under Sections 161 & 164, Cr.P.C. The manner in which she was recovered also different from what the prosecution has said. In her statement

under Section 164, Cr.P.C. she has tried to make the case as one of going rape.

2. As against this, the learned Counsel for the complainant has contended that all the material to which attention has been invited to say was before the court when the earlier bail application were rejected and there is no ground for changing the opinion at this stage.

3. I have carefully considered the contentions and peruse the record by going through the statements of the witnesses. It would not be appropriate witnesses. It would not be appropriate to express any opinion on the merits of the case. Medical examination does not say that there were any injuries on her body. In fact, the medical examination is as regards age only. Statements under Sections 161 & 164 Cr.P.C. of Phooli also given out a different story. Considering this and that the petitioner has remained in custody for over three months, he be released on bail on suitable conditions.

4. It is, therefore, ordered that the accused petitioner Shankar be released on bail provided that he furnishes a personal bond in the sum of Rs. 5,000/- (Rs. five thousand) with one surety in the like amount to the satisfaction of the trial court with the stipulation to appear before that court and when called upon to do so using the pendency of the trial with the conditions that (a) he shall not commit any offence (b) he shall not temper with the witnesses of prosecution in any manner.