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Court : Rajasthan

Decided On : Apr-03-1989

Reported in : 1989WLN(UC)81

Judge : Mohini Kapoor, J.

Appeal No. : S.B. Cr. Misc. Bail Application No. 542 of 1989

Appellant : Omi Alias Omprakash and anr.

Respondent : State of Rajasthan

Disposition : Application allowed

Judgement :

Mohini Kapoor, J.

1. The petitioners are accused in a murder case. They were released on bail by the Sessions Court, but subsequently the bail granted to them was cancelled on an application of one witness Mahaveer Prasad. The petitioners are in custody since 24th Feb. 1989. They have moved this application for grant of bail.

2. Mahaveer Prasad is a person, who lodged the First Information Report on the basis of which a case was registered. It appears that he wrote a letter to the Sessions Court and thereafter moved an application and it was on the basis of this that after giving notice to the accused persons the bail granted to these two

petitioners was cancelled. It may also be mentioned that Mahaveer Prasad was in judicial custody when the alleged letter/application were written by him. He is an accused in a case in which the brother of petitioner Omi was murdered. His statement has been recorded before the court on 28-3-1989. In this statement he has denied that he lodged the report. Now he has also moved another application saying that the earlier letter and application for cancellation of bail was not signed and moved by him.

3. The learned Public Prosecutor was asked to submit some record about the incident alleged to have occurred in the jail premises but nothing has been obtained in this connection.

4. The present situation is that it cannot be said that whether Mahaveer Prasad moved the application for cancellation of bail or whether he was threatened by the accused or any one else. One thing is certain which is that he does not want to come out with a truth. Whether this is a result of the influence of the petitioners or not, it cannot be said. However, statement of this witness has been recorded and the danger to his life can be said to be over. No one has come forward to make any complaint against these petitioners. It can also be said here that in the application of Mahaveer Prasad there are general allegations against the accused, who are 9 in number and names of the accused have not been mentioned. This type of general allegations do not deserve that much attention which is required for purposes of cancellation of bail. Considering this fact and circumstance that Mahaveer Prasad has already been examined in the court, the petitioners can be released on bail on appropriate conditions.

5. The petitioners Omi alias Om Prakash and Babbu shall be released on bail provided, each of them furnishes a personal bond in the amount of Rs. 5,000 with two sureties in the amount of Rs. 2, 500/- each to the satisfaction of the trial court for their appearance during the course of trial on all dates of hearing and as when they are called upon to do so, and also on the following conditions:

[1] that they shall not carry any weapon with them and

[2] that they shall not threaten or influence the witnesses in the case.

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