

Siya Ram Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jul-28-1988

Reported in : 1988WLN(UC)191

Judge : Mohini Kapoor, J.

Appeal No. : S B. Cr. Misc. Bail Application No. 1671 of 1988

Appellant : Siya Ram

Respondent : State of Rajasthan

Disposition : Application allowed

Judgement :

Mohini Kapoor, J.

1. An incident occurred on the night of 13/14th April, 1988 in which dacoity was committed at the house of Sita Ram and Jasodra. It is alleged that 10 or 12 dacoits who were armed with arms came and they fired and took away one boy and two girls. In this incident the petitioner was arrested on 25-5-1988. His bail application has been rejected by the Special Judge, Dholpur by order dated 24-6-1988.

2. In his petition it has been contended that the only evidence against the petitioner is, identification by one witness Vishanlata and this should not be taken

to be sufficient evidence for the purpose of retaining the petitioner in custody. Second circumstance is that the dacoits while talking to each other took names and name of Siya Ram was also taken by them. However, this fact does not find place in the FIR.

3. Several opportunities were given to the learned Public Prosecutor to call for the case diary in this case but the same has not been produced for the perusal of this Court, inspite of letters written to the Director General of Police, Rajasthan and other authorities. This with holding of the case diary creates suspicion. Three persons Were kidnapped and it appears that out of them only one has identified the accused. However at this stage, it cannot be said what is the actual evidence against the petitioner as a result of investigation, but when he is a resident of the neighbouring village and the chances are that the complainant knew him from before then it would not be proper to deny bail to him Section 5 of the, Dacoity Affected Areas Act lays down special law for the purpose, of grant of bail to persons being tried under this Act but in order to seek an order refusing bail to such person it is necessary for the prosecution to show that, there is prima facie case against the accused and this can be shown by evidence collected in the case and not by the observations of the Special Judge in the order rejecting bail.

4. Considering all the circumstances the petitioner is directed to be released on bail on his frunishing a personal bond of Rs. 10,000/- (Rupees ten thousand) and two sureties of Rs. 5,000/- each for his appearance before the trial Court on the next date as and when called to do so with the condition that he shall not commit any offence during the time of the trial is pending.