

Mst. Bashiran Vs. State of Rajasthan

Mst. Bashiran Vs. State of Rajasthan

SooperKanoon Citation : sooperkanoon.com/764476

Court : Rajasthan

Decided On : Oct-13-1987

Reported in : 1988(1)WLN539

Judge : I.S. Israni, J.

Appeal No. : S.B. Cr. Misc. Bail Application No. 2654 of 1987

Appellant : Mst. Bashiran

Respondent : State of Rajasthan

Advocate for Pet/Ap. : Shri. Ravi Kasliwal

Judgement :

I S. Israni, J.

1. This bail application under Section 438, Cr.PC has been filed against the order dated 29-8-1987 passed by the learned Sessions Judge in FIR No. 70/87 registered at Police Station Madanganj, Ajmer for offence under Section 304 IPC.

2. A report was lodged by one Khaju on 18-5-1987 at 630 nm regarding the death of his married daughter Mariyam, who died on 15-5-1987 In this report, it is alleged that in the beginning the relations between the deceased and her husband were cordial but after some time her husband and other members of the family started making demands fore more dowry from her and parents. It has been further stated

in the report that he came to know at about 4/5 p m. on 15-5-1987 that his daughter was in hospital where he went and saw that she had died and her tongue and eyes were struck out and there were no signs of burning on her body, This report as stated was lodged on 18-5-1987, 3 days after the incident took place.

8. The contention of learned Counsel Shri Ravi Kasliwal appearing for the petitioners is that Iqbal husband of the deceased has been released on bail under the provisions of Section 439 Cr.PC and his sister Raisa a minor and his brother Sarauddin have been given the benefits of the provisions of Section 438 Cr.PC. His another sister Hasina who is also a minor has also been granted indulgence of bail under Section 439 Cr.PC.

4. The contention of the learned Counsel is that there is only a general statement in the FIR that the deceased was ill treated for dowry by all members of the family including petitioner Bashiran, who is mother-in-law of the deceased Mariyam. It is contended that since there is no specific allegation against Bashiran and a general allegation has been made against all members of the family, she also stands on the same footing as the other members of the family. It is also contended that in the order dated 22nd May, 1987 passed by the learned Sessions Judge, Ajmer in bail application No. 431/87, it is clearly stated that the deceased was found with 100% burns in the kitchen of the house of her husband. It is, therefore, submitted by the learned Counsel that the allegations in the FIR regarding death by strangulation of deceased Mariyam does not hold any ground. It is further submitted that the petitioner is a lady of 60 years of age and deserves to be given indulgence of the provisions of Section 438 Cr.PC.

5: Learned Public Prosecutor, Mrs. Kamla Jain appearing for the State has urged that this is a case of dowry death, in which the petitioner does not deserve to be shown any leniency. The case is still under investigation and the role of Bashiran is different from that of others. She has placed reliance on the case of Samander Singh v. State of Rajasthan 198 (1) SCC 666 in which it was observed by the Apex Court that the anticipatory bail should not be granted by the High Court to a person against whom investigation in connection with dowry death is still going on.

6. In the present matter 6 persons are involved, out of whom 5 are already on bail under the provisions of sections 438 & 439 Cr.PC. In the FIR there is a general statement against all the members of the family regarding demand of dowry, but I do not find any other supporting evidence regarding the same. The case of the petitioner Bhasiran also stands on the same footing as that of Raisa and Hashina, who are already on bail. The petitioner is 60 years old lady and in view of these circumstances, she deserves to be given indulgence of the provisions of Section 438 Cr.PC.

7. It is, therefore, ordered that the SHO Arresting Officer/Investigating Officer, Police Station, Madanganj, Ajmer is directed that in the event of arrest of Bashiran w/o Shri Bashir Mohammed in FIR No 70/87, she may be released on bail, provided she furnishes a personal bond in the sum of Rs. 5000/- with one surety in the like amount to his satisfaction, on the following conditions:

[1] that the petitioner shall make herself available for interrogation by a Police Officer as and when required;

[2] that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the court or to any Police Officer;

[3] that the petitioner shall not leave India without the previous permission of the Court.

8. It may be stated that none of the observations made here shall cause any prejudice to the case of either party in the matter.