

Rajesh Alias Baba Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jul-04-1988

Reported in : 1988WLN(UC)322

Judge : D.L. Mehta, J.

Appeal No. : S.B. Cr. Misc. Petition No. 544 of 1988

Appellant : Rajesh Alias Baba

Respondent : State of Rajasthan

Disposition : Petition dismissed

Judgement :

D.L. Mehta, J.

1. The order relating to the suspension of sentence is passed under Section 389 Cr. PC. The Court cannot abuse the powers vested under Section 482 Cr.PC by granting interim bail to the accused person. It was pointed out by the learned Counsel for the petitioner that there is a practice of granting interim suspension of sentence under Section 482 Cr.PC. The power of the Court cannot be arbitrary exercised. Section 482 Cr.PC provides that this court may make such order as may be necessary to give effect to any order under this Court. There is no question of giving effect to any order of this Court because the order or rejection

stands and it has already been given effect. The second part is the abuse of process of any court. Now the application rejecting suspension of sentence is an abuse of the process of law cannot be said. In fact, to grant interim relief may be abuse of the process of the law. The Court has inherent powers under Section 389 Cr.PC to suspend the sentence and the question of grant of interim suspension of sentence does not arise. In fact, the grant of interim parole or parole is the power of administration. We would be reluctant in usurping the power not vested in us by granting such interim relief. It is altogether a different matter that if the powers are exercised arbitrarily or otherwise, the court can pass necessary order while exercising the powers under Article 227 of the Constitution of India.

2. I am also aware of the judgement of Division Bench, in which it has been held that the parole cannot be granted *Poonam Lata v. M.L. Wadhawon and Ors.* : 1987 CriLJ1924 , in which their Lordships of the Hon'ble Supreme Court have held as under:

There is no scope for entertaining an application for parole by the Court straight way.

3 There remains nothing after the judgment of the Hon'ble Supreme Court and I would not like to be a party to please someone. Therefore, the application filed by the applicant is rejected.

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