

Surendra Kumar Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Apr-17-2000

Reported in : 2000CriLJ2619; 2000(2)WLN123

Judge : B.J. Shethna, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 302; Code of Civil Procedure (CPC) - Sections 149 and 302

Appeal No. : Cri. Misc. 2nd Bail Petn. No. 1019 of 2000

Appellant : Surendra Kumar

Respondent : State of Rajasthan

Advocate for Def. : G.K. Vyas, Public Prosecutor

Advocate for Pet/Ap. : S.G. Ojha, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

B.J. Shethna, J.

1. This second bail application is filed by Surendra Kumar s/o Shivdayal on the ground that he is in jail since 24-7-1998 and no progress has taken place in the

trial pending against him before the trial Court and that the other co-accused were convicted by the Trial Court on 7-8-98 against which they preferred an appeal which has been admitted and is pending before this Court.

2. It was submitted by learned counsel Mr. Ojha for the petitioner that while admitting the appeal of the co-accused except the main accused Sanjay who was convicted for the offence punishable under Section 302, IPC and Section 302 read with Section 149, IPC of other co-accused have been enlarged on bail, therefore, the petitioner accused should also be released on bail because there is no likelihood of the completion of trial within a short time.

3. From the impugned order passed by the learned Judge on 22-10-1999, it clearly appears that for delay in trial, none else but the present petitioner himself was responsible. As he jumped the bail after he was enlarged on bail during the pendency of the trial, he remained absconding for a period of nearly one year and after his arrest since 1998, he is in jail.

4. Under the circumstances, when the accused who was enlarged on bail has jumped the bail, then it will not be safe to release him on bail once again particularly when the other co-accused has been convicted after the trial by the Trial Court. Hence this second bail petition has to be rejected and is rejected.

5. However, there is some substance in what was submitted by learned counsel Mr. Ojha for that petitioner will have to unnecessarily remain in jail without trial being completed because while admitting the appeal, the record is already called for from the trial Court, therefore, the trial Court would not be in a position to go on with the matter against the petitioner. This can be taken care of by directing the office to prepare the certified copy of the record, which is already called for from the trial Court while admitting the appeal by the Division Bench of this Court, and thereafter the original record be remitted to the Trial Court for early disposal of the trial against the present petitioner.

6. Accordingly, the office is directed to take out the certified copies of the entire record received by it in D.B. Criminal Appeal No. 529/98 from the Trial Court i.e. the Court of Additional Sessions Judge No.1. Sri Ganganagar in Sessions Case

No. 72/95 and remit the original record to the Trial Court for early disposal of the trial.

7. The office shall do it as early as possible preferably within fortnight from today and after preparing the certified copy of the record, the same shall be sent to the trial Court forthwith. On receiving the original record, the Trial Court shall prosecute the trial against the present petitioner and try to decide the case as early as possible preferably within six months from the receipt of the record.

8. With these observations, this second bail petition is dismissed.

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