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Mohan Khadia Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Mar-08-1977

Reported in : 1977WLN456

Judge : M.L. Shrimal, J.

Appeal No. : S.B. Criminal Misc. Bail Application No. 258/77

Appellant : Mohan Khadia

Respondent : State of Rajasthan

Disposition : Application dismissed

Judgement :

M.L. Shrimal, J.

1. Heard learned Counsel. The accused petitioner is required in a case registered at the Police Station, Kotwali, Jaipur. The amount involved is said to be Rs. 2,97,986.62. A first information report regarding this embezzlement & forgery was registered at the Police Station on April 28, 1976. The co-accused was arrested in May, 1976 and is still in jail, but the accused-petitioner has not yet been apprehended. He was a Cashier in the Bank at the relevant time. Section 437 Cr. P.C is the main provision for bail in regard to non bailable offences. It is followed by Section 438 Cr. P.C., a provision for the grant of anticipatory bail. It is manifest

that condition Imposed by Section 437(1) Cr. P.C. are implicitly contained in Section 438 Cr. P.C. otherwise the result would be that persons coming from influential section of the society would be able to thwart the investigation and get them admitted to bail. The Legislature did not intend that accused charged with serious offences should be allowed to bypass the provisions of Section 437 Cr. P.C. Section 438 Cr. P.C. does not confer unbridled and unguided powers on the courts. The provisions of Section 438 Cr. P.C. are required to be utilised when the prosecution agency misdirects or attends to oppress and harass innocent persons for political or other reasons. The petitioner has failed to make out a special case for issuance of a direction under Section 438 Cr. P.C.

2. The application is devoid of merits and it is dismissed.

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