

Narain Singh and ors. Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Apr-01-1986

Reported in : 1986WLN(UC)625

Judge : Kishore Singh Lodha, J.

Appeal No. : S.B. Cr. Misc. Bail Application No. 90 of 1986

Appellant : Narain Singh and ors.

Respondent : State of Rajasthan

Disposition : Application allowed

Judgement :

Kishore Singh Lodha, J.

1. This matters arise out of the same proceedings and, therefore, they are being disposed of together. The bail application No. 4 25/86 has been moved on behalf of Jagdish and the other bail application No. 426/86 has been moved on behalf of four other co-accused Narainsingh, Manghilal, Jaising and Raghunathsingh.

2. Initially after investigations of the case the police had put up a challan for offences under Sections 147, 148, 149, 323 and 325 IPC against the five accused persons. However the police even after the filing of the above challan continued investigations and later filed a further challan including the offence under Section

307 IPC also apart from the other offences for which the challan has already been filed.

3. The accused persons apprehend that since now the challan under Section 307 IPC has been filed, the learned Magistrate may take cognizance of that offence and direct their arrest, although on the basis of the earlier challan they are already on bail.

4. So far as the application under Section 482 Cr. PC is concerned, the contention of the learned Counsel for the petitioners is that as a matter of fact the police had no jurisdiction to continue any further investigations after the challan had been filed without the permission of the court and the later challan is thus illegal, that the later challan is not based on any further material which may have come to the notice of the police after the earlier challan had been filed and that the later challan is a motivated one and in these circumstances it is prayed that in proceedings under the second challan may be quashed.

5. I have heard the learned Counsel for the petitioner and the learned Public Prosecutor.

6. So far as the bail applications are concerned looking to all the facts and circumstances of the case I am of the opinion that the petitioners may be granted anticipatory bail. Since they are already on bail on the basis of the first challan filed and there is an apprehension that if cognizance is taken on the basis of the subsequent challan they may be arrested.

7. So far as the petition under Section 482 Cr. PC is concerned, I am of the opinion that the matter initially is for the consideration of the learned Magistrate before whom the subsequent challan has been filed and it would not be proper for me to express any opinion about any of the contentions raised before me at this stage. The petitioner shall have an opportunity to raise all those objections before the learned Magistrate.

8. The application under Section 482 Cr. PC is accordingly rejected.

9. The bail applications are allowed and it is directed that if the learned Magistrate takes cognizance of the offence under Section 307 IPC against the petitioners Jagdish, Narainsingh, Mangilal, Jaisingh and Raghunathsingh, he will only issue a bailable warrant in the sum of Rs. 3000/-(Three thousand) on the following conditions against each of the petitioners

(1) that the petitioners shall make themselves available for interrogation by a police officer as and when required.

(2) that the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(3) that the petitioners shall not leave India without the previous permission of the Court.

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