

Prithvi Raj Vs. the State of Rajasthan

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Court : Rajasthan

Decided On : May-15-2001

Reported in : 2001WLC(Raj)UC806; 2007(3)WLN317

Judge : V.G. Palshikar, J.

Appeal No. : S.B. Criminal Misc. Bail (IInd) Application No. 1015 of 2001

Appellant : Prithvi Raj

Respondent : The State of Rajasthan

Judgement :

V.G. Palshikar, J.

1. In this case on the basis of FIR No.86/1999, Jalore Police started investigation into an offence Under Sections 304-B and 498-A of the Indian Penal Code and during the investigation, arrested certain persons against whom, challan has been filed. Pending investigation and trial, bail applications have been moved in trial Court as also in this Court.

2. S.B. Cr. Misc. Bail Petition No. 1961/2000 was filed by Mohan Lal and another in this Court which was dismissed on dated 18.7.2000. Thereafter, S.B. Cr. Misc. Bail Application No.3059/2000 was filed in this Court by Prithvi Raj and it was dismissed on 20.11.2000. Mohan Lal and another again filed a bail application

bearing No.268/2001 which was dismissed by this Court on 7.2.2001.

3. Then S.B. Criminal IInd Bail Application No.849/2001 was filed by Mohan Lal and another in this Court on 5.3.2001 which was granted by me on 8.3.2001. On 22.3.2001, S.B. Cr. IInd Bail Application No. 1015/2001 is filed by Prithvi Raj and S.B. Cr. Misc. Bail Cancellation Application No.6/2001 has been filed on 4.4.2001 by complainant Madan Lal.

4. The bail application of Prithvi Raj is opposed on several grounds namely that he has not correctly disclosed the earlier bail application; that he is likely to tamper with the evidence which may be recorded later on; that he is likely to bully the witnesses and almost on similar grounds, cancellation of bail, already granted to Mohan Lal and another, is sought. An affidavit in reply to the cancellation of bail has been filed. The accused are in jail since June, 2000 and are therefore, trying to seek restoration of their liberty and hence, repeatedly application are made for grant of bail. It is obvious that certain errors of not mentioning the correct number of previous bail applications have been committed by the applicants. It is wrong it is an error which should not be committed. It is not an error for commission of which bail application granted on the merit should be cancelled. The main thrust of arguments of Shri Shamboo Singh requesting for cancellation of bail was concealment of material facts. The entire record is present before me and as observed earlier, certain error of non-mention have been committed, that in itself is no ground for cancelling the bail once granted.

5. The principles governing cancellation of bail once granted are well settled if the persons released on bail, misused the bail either running away from the Court or tampering with the evidence or by interfering with the recording of evidence or investigation or in any manner interfering with the administration of justice. Now in this case, the investigation is completed and challan has been filed, there is therefore, no question of tampering investigation. As far as tampering with the evidence is concerned, large number of affidavits have been filed both by the complainant and by the accused. I do not wish to say anything on the merits of this affidavits. I only deem it necessary to mention that the complainant is taking more interest in detention of the accused than the State which is custodian of law and

order. The complainant desires that the accused must remain behind the bars. After investigation is completed, such requirement is not very stringent. I do not think it proper to adjudicate upon the merit or demerit of the affidavits filed as it is likely to affect in either way the trial which is in progress.

6. In my opinion, interest of justice would be met in this case if the accused Prithvi Raj is also released on bail on his furnishing personal bond in the sum of Rs.50,000/- with two sureties of Rs. 25,000/- and the conditions of bail granted to Mohan Lal, Prithvi Raj and Vishnu are modified. The condition of grant of bail granted to these persons shall in addition to what has already been bound; (b) the accused shall not, except when necessary for trial with prior permission of the Court, enter Jalore District.

7. It is then argued vehemently by Shri Shamboo Singh that an error has been committed by me in the case of Mohan Lal while granting bail when the earlier bail was rejected. The error according to him i.e. committed by me is that F.S.L. Report of the expert on the author of the suicide note was already on record when I first rejected the bail application I have committed an error in granting bail. The contention is baseless. I granted the second bail on the averments made and not refuted by anybody that another expert opinion was obtained by Mohan Lal on the suicide note and it was expressed that both the notes are not written by the same person. This is therefore, no ground on which bail can be cancelled. It cannot be a ground for assailing my order. In that view of the matter, there is no need to cancel the bail already granted. I repeat that the accused shall, execute, if not already executed, bail bond in the sum of Rs.50,000/- with two sureties of Rs.25,000/-and shall not enter in Jalore District without prior permission of the Court except whenever necessary during the course of trial.