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Court : Rajasthan

Decided On : Feb-15-2010

Judge : Mahesh Bhagwati, J.

Appellant : Jitendra Singh

Respondent : State of Rajasthan

Judgement :

Mahesh Bhagwati, J.

1. This order governs the disposal of bail application filed under Section 438 of Cr.P.C. by Mr. Pankaj Gupta, Advocate on behalf of applicant Jitendra Singh S/o Ratan Singh in FIR No. 297/2009 of Police Station, Bandikui, District Dausa in the offences under Sections 143, 148, 149, 341, 323, 448, 354 and 307 of IPC.
2. Heard learned Counsel for the petitioner as also the learned Public Prosecutor for the State and perused the material on record.
3. Learned Counsel for the petitioner canvassed that co-accused persons namely Jagdish, Bhairu Singh and Ranjeet Singh have already been released on anticipatory bail by the Additional Sessions Judge, Bandikui. The first bail application filed under Section 438 of Cr.P.C. on behalf of the petitioner Jitendra Singh was dismissed by this Court on the ground that Vijay Singh and Roshan Singh, both, sustained injuries on skull, which were described by the Medical Jurist

to be dangerous to life, but after re-medical examination of the injuries of injured Roshan Singh and Vijay Singh by the Medical Board comprising of three Doctors constituted at the instance of Superintendent of Police, Dausa, these injuries have been found to be simple in nature and none of the injuries sustained by both the injured persons has been described to be dangerous to life. It is a simplicitor case of Section 324 of IPC, which was bailable at the time of occurrence. From no stretch of imagination, offence under Section 326 or 307 of IPC is made out. Hence, the petitioner may be granted indulgence of anticipatory bail.

4. Learned Public Prosecutor has opposed the bail application and contended that the re-examination of the injuries of Vijay Singh and Roshan Singh has been made by the Board of three Doctors after seven months of occurrence. It is true that the Medical Board has described the injuries of Roshan Singh and Vijay Singh to be simple in nature, but keeping in view the injuries caused on vital part, the petitioner does not deserve to be released on anticipatory bail.

5. Having considered the submissions made at the bar and carefully perused the relevant material on record, it is noticed that the injury caused on the skull of Roshan Singh has not been ascribed by Roshan Singh himself to the petitioner Jitendra Singh. Conversely, this injury has been ascribed to the accused Jagdish, who has already been enlarged on pre- arrest bail by the Sessions Court. I also notice a change in the fact situation after 27th August, 2009 when the first anticipatory bail application was dismissed by this Court. At that point of time, the injuries sustained by Vijay Singh and Roshan Singh on skull were described to be dangerous to life, but on a complaint having been filed by the accused party to the Superintendent of Police, Dausa, the Superintendent of Police, Dausa ordered for constitution of a Medical Board comprising of three Doctors, who is found to have medically re-examined the injuries of both Roshan Singh and Vijay Singh and this Board has stated the injuries caused on the skull of Roshan Singh and Vijay Singh to be simple in nature. On being asked by the Investigation Officer, the Medical Jurist vide his report dated 12th February, 2010 has given opinion that none of the injuries caused to Vijay Singh and Roshan Singh has been found to be dangerous to life. Thus, the injuries caused to both the injured persons now stand to be simple in nature. From no stretch of imagination, it can be said that the offence

under Section 307 of IPC is made out. The facts on record and the nature of injuries do not constitute an offence under Section 307 of IPC. Undoubtedly and undeniably it is not a case of the offence under Section 307 of IPC and the police is expected to keep these facts in mind at the time of filing police report under Section 173(2) of Cr.P.C. in the court. In view of the above changed fact situation, the offence under Section 324 of IPC being bailable at the time of alleged occurrence, the petitioner, to my view, deserves to be released on pre-arrest bail and thus, the second bail application filed on behalf of the petitioner Jitendra Singh under Section 438 of Cr.P.C. stands allowed.

6. The SHO/I.O. of the Police Station Bandikui, District Dausa is, therefore, directed that in the event of arrest of the petitioner Jitendra Singh S/o. Shri Ratan Singh in FIR No. 297/2009 registered for offences under Sections 143, 148, 149, 341, 323, 448, 354 and 307 of IPC Act, he shall enlarge him on bail provided he furnishes a personal bond in the sum of Rs. 20,000/- (Rs. Twenty Thousand Only) together with two sureties of Rs. 10,000/- (Rs. Ten Thousand only) to his satisfaction on the following conditions:

(i) He shall make himself available for interrogation by Investigating Officer as and when required:

(ii) He 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;

(iii) He shall not leave India without the previous permission of the Court.

(iv) He will not commit any offence during the period of bail.

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