

IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN
BENCH AT JAIPUR.

O R D E R

S. B. CR. MI SC. BAIL APPLICATION NO. 5634/2010.

Devo @ Rajendra
Vs.
State of Rajasthan

Date of order : 23/6/2010.

HON'BLE MR. JUSTICE MOHAMMAD RAFIQ VJ

Shri Rajesh Goswami for petitioner.
Shri Amit Poonia, Public Prosecutor for State.
Shri Pratap Choudhary for the complainant.

Heard learned counsel for petitioner,
learned Public Prosecutor for the State,
learned counsel for the complainant and
perused the relevant documents placed before
me.

Contention of the learned counsel for
petitioner is that even though petitioner was
named in the first information report when
originally charge sheet was filed against
seven other co-accused persons, investigation
against him was not kept pending under Section
73(8) Cr.P.C. No specific role has been
assigned to him by the witnesses whose
statements were recorded by the police at that
time. Petitioner is in jail for last one
month. Trial of the case is likely to take a
long time. In the FIR, informant Sitaram

attributed the fatal injuries to Jagmohan and Vasudev. Seven other co-accused persons namely; Omi @ Omprakash, Vasudev, Laxman @ Laccho, Kedarnath, Murari, Ramanlal and Prakash @ Omprakash went to trial and all of them have been acquitted on 25/2/2009 because not only informant Sitaram, who is uncle of the deceased did not support the prosecution case but also when he was examined as PW5, father of deceased PW2 Ramesh and his brother PW3 Raju @ Rajendra have also not supported the prosecution case and have been declared hostile. Petitioner is in jail for last six months and fresh trial may take a long time because some accused are still absconding.

Learned counsel for the complainant has opposed the bail application and submitted that some of the witnesses whose supplementary statements were recorded in investigation were not produced before the court and when trial of the above seven co-accused persons was conducted. They have given a different version of the incident because they have in their police statements assigned some specific role to the petitioner and katta has been recovered at his instance.

Learned Public Prosecutor has also

opposed the bail application.

Considering the submissions made at the bar, the nature of accusation, the materials on record, all other facts and circumstances of the case and looking to the fact that informant, father and brother of the deceased have turned hostile and have not supported the prosecution case, I deem it just and proper to enlarge the petitioner on bail.

In the result, this bail application u/S. 439 Cr.P.C. is allowed and it is directed that petitioner Devo @ Rajendra S/o Shri Satyadev shall be released on bail in FIR No. 382/2007 P.S. Roopwas, District Bharatpur for offence u/Ss. 147, 148, 149, 323, 341, 451 and 302 read with Section 120-B IPC on his furnishing a personal bond in the sum of Rs. 30,000/- together with two sureties in the sum of Rs. 15,000/- each to the satisfaction of the concerned Court for his appearance before that court on all dates of hearing until conclusion of the trial.

(MOHAMMAD RAFIQ), VJ.

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