

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. CR.MISC.II BAIL APPL NO.7111/2010
Mangi Lal Vs. State

Date of order : 30/9/2010.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri S.K. Panwar for the petitioner.
Shri Peeyush Kumar P.P. for the State.

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

This second application for bail has been filed by the petitioner because his first bail application was rejected by this Court by order dated 15.7.2010 with liberty to him to apply again before the court below after the statement of prosecutrix is recorded.

Shri S.K. Panwar, learned counsel for the petitioner has argued that the statement of prosecutrix was recorded on 7.7.2010 and she has been declared hostile. She had in the statement levelled the allegation of rape against Kanhaiya Lal and not against the present petitioner. The learned Additional Sessions Judge, however, rejected the application of the petitioner pending trial by order dated 19.7.2010 only on the premise that the prosecutrix was minor. It is contended that even the allegation made in the statement under

Section 164 of Cr.P.C., there was no allegation of rape against the present accused petitioner Mangi Lal. She had alleged that Kanhaiya Lal wanted to marry with her and therefore had forcibly taken her away and Mangi Lal cooperated with him. Even that allegation has not been maintained against the present petitioner by her in the court statement, in which entire focus of allegation is against co-accused Kanhaiya Lal. Accused Mangi Lal is therefore entitled to be enlarged on bail.

Learned Public Prosecutor has opposed the bail application and argued that the petitioner in view of the seriousness of allegation is not entitled to be granted the benefit of bail.

Without expressing any opinion on the merits of this case but taking into consideration all the facts and circumstances of the case especially the fact that prosecutrix has been declared hostile as far as allegation against the petitioner is concerned, I deem it appropriate 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 Mangi Lal S/o Shankar Lal shall be released on bail in F.I.R. No.44/2010, P.S. Sarola Kalan, Distt. Jhalawar to 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 trial Court for his appearance before that court on all dates of hearing and as and when called upon to do so till conclusion of the trial.

(MOHAMMAD RAFIQ), J.

RS/