

S. B. Criminal Misc. IIIrd Bail Application No.  
4867/2011  
(Arjun Singh Versus State of Rajasthan)

Date of Order                    ::                    30<sup>th</sup> June, 2011

Present  
Hon'ble Mr. Justice Mahesh Bhagwati

Mr. Sanjay Sharma, for the petitioner  
Mr. G.S. Fauzdar, PP for the State of  
Rajasthan

This is IIIrd bail application filed on behalf of the accused petitioner Arjun Singh U/s. 439 of CrPC.

The accused petitioner is alleged to have been involved in the offences under Section 302 and 201 readwith Section 34 of Indian Penal Code.

Learned counsel for the petitioner canvassed that almost all the material witnesses have turned hostile and they have not supported the prosecution case. In view of the statements of the material witnesses, nothing remains left and the purpose shall not be served in detaining the accused petitioner in custody. Hence, he may be granted indulgence of bail.

Learned PP appearing for the State has opposed the bail application on the ground that the trial of the case is at its concluding stage and only five witnesses are left to be examined. Hence, at this stage, the petitioner should not be admitted to bail.

Having considered the submissions made at the bar and carefully perused the relevant material on record, it is noticed that first bail application stood dismissed by this Court on 16<sup>th</sup> June, 2010. Thereafter second bail application stood dismissed on 3<sup>rd</sup> March, 2011. By that time 11 prosecution witnesses had been examined. It is admitted by both the parties that the trial of the case is at its concluding stage. Learned trial court dismissed the bail application vide its order dated 9<sup>th</sup> March, 2011 on the ground that albeit some material prosecution witnesses turned hostile and they did not support the prosecution story, but apart that, the case rested on circumstantial evidence too. This Court while deciding the second bail application on 3<sup>rd</sup> March, 2011 recorded in the order that one iron rod is alleged to have been recovered at the instance of the petitioner from kitchen, which was blood stained. This iron rod has been found to be the subject of the case, which is alleged to have been used in committing the offence of murder. Mere turning some of the prosecution witnesses hostile, does not give a right to the accused petitioner to get bail in the case of murder, especially when the prosecution case rests on

circumstantial evidence.

In view of above, without expressing any opinion on merits of the case, I do not feel inclined to grant bail to the petitioner accused and his third bail application also stands dismissed for those very reasons, as enumerated in the second bail order dated 3<sup>rd</sup> March, 2011.

Learned counsel for the petitioner submitted that the accused petitioner has been in custody for the last more than one year and the trial of the case is struck for the reason that the FSL report has yet not been received.

Hence, the learned trial court is directed to call for the FSL report and expedite the case as early as possible.

**(Mahesh Bhagwati), J.**

DK