

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAI PUR BENCH, JAI PUR

S. B. Criminal M sc. IInd Bail Application
No. 14298/ 2014
(Madan Lal Versus The State of Rajasthan)

Date of Order :: 9th December, 2014

PRESENT

HON BLE MR. JUSTICE MAHESH CHANDRA SHARMA

Mr. Sajid Ali, counsel for the petitioner
Mr. R. S. Shekhawat, PP for the State

This IInd bail application has been filed under Section 439 Cr PC.

Brief facts of the case are that an FIR No. 191/ 2012 was lodged at Police Station Ramganj Mandi, District Kota for the offence under Section 409 IPC. The investigation was commenced and during the course of petitioner was arrested. He moved the bail application before the court below, but the same had been dismissed vide order dated 10.9.2014. Thereafter he moved S. B. Cr. M sc. Bail Application No. 11326/ 2014 before this court, but the same was dismissed vide order dated 17.10.2014 giving liberty to the petitioner to file a fresh bail application before the trial court after filing of the challan. Thereafter he moved a fresh bail application before the Court below, but the same has been dismissed vide order dated 27.11.2014. Hence, this IInd bail application has been filed before this Court.

Learned counsel for the petitioner has contended that after 9 months of his retirement, the FIR was registered. The investigation has been completed and challan has been filed. The petitioner is in judicial lock up since long and conclusion of trial will take time. He has further contended that investigation is pending against

the complainant also in the same FIR under Section 173(8) Cr PC. Likewise the investigation is also pending against other co-accused persons under Section 173(8) Cr PC. He has further contended that no other case is pending against the petitioner except this one. He is drawn the attention of this Court on the relevant part of the order of the court below, which is reproduced as under:

"दौराने बहस विद्वान अधिवक्ता प्रार्थी/ मुलजिम का कहना है कि इस मामले में प्रार्थी/ अभियुक्त काफी लम्बे समय से न्यायिक अभिरक्षा में है, जिसने कोई अपराध कारित नहीं किया, उसे इस मामले में बेवजह झूंठा फँसाया गया है। प्रकरण में प्रार्थी / मुलजिम के विरुद्ध चार्जशीट भी पेश हो चुकी है तथा इस मामले में एफ.आई.आर. दर्ज कराने वाले परिवादी सीमा सिह के विरुद्ध धारा 173(8) सी.आर.पी.सी. में अनुसंधान पेंडिंग रखा गया है तथा इसके अलावा ओमप्रकाश मीणा व अन्य के विरुद्ध भी 173(8) सी.आर.पी.सी. में अनुसंधान पेंडिंग रखा गया है जबकि सीमा सिह इस मामले में परिवादिया एवं एफ.आई.आर कर्ता है। यदि वह मुलजिम बनती है तो इस मामले का कोई प्रभाव ही नहीं रह जायेगा तथा 161 सी.आर.पी.सी. में जो इस मामले के महत्वपूर्ण गवाह है उनके विरुद्ध भी 173(8) सी.आर.पी.सी. में मामला पेंडिंग रखा गया है। मामले के समस्त विचारण में समय लगने की सम्भावना है। इस मामले में जो औडिट हुई उसके सम्बंध में औडिट वालों द्वारा कोई रिपोर्ट प्रार्थी/ मुलजिम के विरुद्ध दर्ज नहीं कराई गई है। प्रार्थी / मुलजिम ने प्रारंभ से ही प्रबंधक / सचिव एवं अन्य को काफी बार इस सम्बंध में निवेदन किया था कि गोदामों की हालत खराब है इन्हे तुरंत रिपेयर कराया जाये लेकिन उसकी बात कभी नहीं सुनी गई एवं बारिस में गोदामों में रखा हुआ गेहूँ एवं चावल सडगल गया जिसकी समस्त जिम्मेवारी समिति प्रशासन की है इसमें प्रार्थी/ मुलजिम की कोई गलती नहीं है। अतः प्रार्थी / मुलजिम को जमानत का लाभ दिया जाये।"

In this view of the matter, he has requested that the petitioner should be released on bail.

Learned PP appearing for the State has opposed the same.

I have heard learned counsel for the parties and carefully perused the relevant

material on record.

In view of above, without expressing any opinion on the merits and demerits of the case, I deem just and proper to enlarge the petitioner on bail.

Therefore, this kind bail application is allowed and it is directed that accused petitioner Madan Lal Joshi S/o Birdhi Chand Joshi, shall be released on bail under Section 439 CrPC in FIR No. 191/ 2012 registered at Police Station Ranganj Mandi, Kot a, provided he furnishes a personal bond of Rs. 2,00,000/- (Rs. Two Lakh) with two sureties of Rs. 1,00,000/- (Rs. One Lakh) each to the satisfaction of the trial court with the stipulation that he shall appear before that Court on all subsequent dates of hearing and as and when called upon to do so.

(MAHESH CHANDRA SHARMA), J.

DK

All corrections made in the judgment / order have been incorporated in the judgment / order being E-mailed.

Dilip Khandelwal
PA