

**HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH AT
JAIPUR**

S.B. Criminal Miscellaneous II Bail No. 12724 / 2017

Mukesh Kumar S/o Hanuman Sahay Yadav, R/o Dhani Mahrawali,
Village Markhi, Tehsil Shahpura, Distt. Jaipur (at Present Confined
in Central Jail, Jaipur)

-----Petitioner

Versus

State of Rajasthan Through P.P.

-----Respondent

For Petitioner(s) : Mr. Anoop Dhand

For State : Mr. Jitendra Shrimali, PP

Investigating Officer : Mr. Kamlesh Kumar, ASI, P.S. Amarsar,
District Jaipur

HON'BLE MR. JUSTICE BANWARI LAL SHARMA

Order

22/09/2017

The present Misc bail application under section 439 Cr.P.C. is preferred by the Accused/ petitioner in the matter of FIR No. 80/2017 registered at Police Station Amarsar, District Jaipur, for offences punishable under Sections 341, 323, 324, 365 and 506 of IPC.

Learned counsel for petitioner submits that first bail application of present petitioner was dismissed as withdrawn with liberty to file subsequent bail application after filing of charge-sheet. Now, investigation has been completed and charge-sheet has already been filed, therefore this second bail application is submitted.

He submits that petitioner is in custody since 28.06.2017 and there is only one case pending against the present petitioner. He submits that from the perusal of entire charge-sheet, it reveals that petitioner and co-accused has nothing to do with the victim, there was no enmity of petitioner and co-accused with the victim rather the main accused are Laxmichand Gupta, Smt. Chandra Kanta Gupta, Deepika and Pooja against whom proper investigation has not been conducted by the Investigating Officer, just to save them he recorded their statements under Section 161 Cr.P.C. instead of arresting them shown them as prosecution witnesses. The fact enshrined from their statement, clearly indicates that accused party called them and satisfied them that they have complied their orders, therefore appropriate proceedings may be initiated against the Investigating Officer and petitioner may be released on bail.

Per contra learned Public Prosecutor submits that investigation under Section 173 (8) Cr.P.C. is pending against the co-accused, therefore some time may be given so that investigation regarding involvement of Laxmichand Gupta, Smt. Chandra Kanta Gupta, Deepika and Pooja may also be investigated. He assures this Court that investigation which is pending under Section 173 (8) Cr.P.C. will be complied shortly preferably within one month. He opposed the bail application and submitted that there are serious allegations against the present petitioner, therefore his bail application may be dismissed.

I have considered the submissions made at bar.

On consideration of submissions made on behalf of the respective parties and the material made available for my perusal, therefore without expressing any final opinion on the merit and de-merit of the case and specially considering the fact that petitioner is in custody since 28.06.2017 and the injuries sustained on the body of victim are simple in nature and he was released from the hospital on the same day, I am inclined to grant benefit of bail to the accused-petitioner.

Consequently, the bail application filed under Section 439 Cr.P.C. is allowed.

Therefore, it is ordered that the accused-petitioner Mukesh Kumar S/o Hanuman Sahay Yadav in FIR No. 80/2017 registered at Police Station Amarsar, District Jaipur, shall be released on bail; provided he furnishes a personal bond of Rs. 2,00,000/- and two surety bonds of Rs. 1,00,000/- each to the satisfaction of the learned trial court with the stipulation to appear before the Trial Court on all dates of hearing and as and when called upon to do so.

If in future, involvement of present petitioner is found in any other similar type of criminal case, then concern SHO will have liberty to file application before the learned Trial Court for cancellation of this bail order and learned Trial Court will have liberty to cancel this bail order without further reference to this Court.

(BANWARI LAL SHARMA)J.