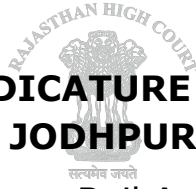




**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**



S.B. Criminal Miscellaneous Bail Application No. 7769/2024

Prabhu Ram S/o Sh Amara Ram, Aged About 27 Years, R/o
Village Pooran , Police Station Jaswantpura, Distt Jalore.

(At Present Lodged At Sub Jail Bhinmal)

----Petitioner

Versus

State Of Rajasthan, Through Pp

----Respondent

For Petitioner(s) : Mr. Rahul Sharma
Mr. Prashant Sharma
For Respondent(s) : Mr. Laxman Solanki, PP

HON'BLE MR. JUSTICE RAJENDRA PRAKASH SONI
Order

Reportable

19/07/2024

1. Petitioner is lugged and locked in F.I.R No.23/2024 of Police Station Jaswantpura, District Jalore, for the offence under Section(s) 498-A and 304-B of the I.P.C. He has filed this application for restoration of liberty under section 439 of the Code of Criminal Procedure, 1973.

2. Learned counsel representing the petitioner vehemently urged that death of Rekha @ Mamta was simply an accidental death, since there are indications of her being slipped from staircase of her house, which can be inferred from facts mentioned in site plan and site description memo. He further argued that there was only a simple injury below her eye, marks of bandage, drip administration to her and stitching of wounds on her body. He further argued that deceased suffered injuries due to falling from staircase and ingredients of the Section 304-B of the



IPC cannot be treated to be made out against the petitioner since deceased died due to cardiac arrest.

3. He further argued that the petitioner is innocent person and a false case has been foisted against him; that entire allegations so leveled by the police against the petitioner is totally false and baseless; that nothing has been recovered from possession of the petitioner; that there is no concrete evidence to show direct nexus between the petitioner and alleged crime, rather case of the prosecution is based on surmises and conjectures instead of sound legal evidence. Therefore, considering the facts and circumstances the petitioner may be released on bail.

4. From the other side, learned Public Prosecutor for the State has strongly objected the submissions made by learned counsel for the applicant.

5. It was further argued that there is overwhelming evidence adduced on record which would prima-facie point towards the guilt of the applicant; that keeping in view the gravity of offence alleged to have been committed by him, he does not deserve any leniency, rather they need to be dealt with severely. He thus, prayed that in the facts of the present case, it is expedient that accused be kept in the custody.

6. I have given my thoughtful consideration to the arguments advanced by learned counsel for the parties and have perused the record carefully.

7. Having given anxious consideration to the rival submissions and having examined the record with reference to the law applicable, I am clearly of the view that petitioner is husband of



deceased. It is an admitted case of prosecution that deceased Rekha @ Mamta died in her in-laws house. The fact that Rekha @ Mamta had fallen from the stairs at her in-laws residence did not come up in statement of any witness, recorded under Section 161 of Cr.P.C. It is prima-facie, only an assumption or imagination of Investigating Officer that Rekha @ Mamta slipped from the staircase which resulted into injury to her. It prima-facie, appears that Investigating Officer has brought this fact on file, beyond the record in order to weaken the case of complainant/prosecution and to facilitate the accused to get a basis for defence. The I.O. was not the eye-witness of the incident, who could have narrate such observation of falling of Rekha from the stairs in site plan. In view of the PMR and medical report, prima-facie it is a case of unnatural death.

8. In view of the enormous *prima facie* material placed on record in respect of the applicant, the allegations leveled against the petitioner, I am of the considered view that looking to the nature and gravity of the accusation in the instant case, the role attributed to the petitioner, the petitioner is not found entitled to be released on bail.

9. As a consequence of the above discussion, this Court is not inclined to extend indulgence of bail to the petitioners under Section 439 Cr.P.C. and hence, the instant Bail Application stands dismissed as being devoid of merit. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.



10. Before parting with, it is observed that this Court has identified such a serious inaccuracy and shortcomings in the investigation and charge-sheet filed by the Investigating Officer concerned. Said inaccuracy and assumption of investigation might significantly affect the case of the prosecution. It was imperative on the part of the Investigating Officer that investigation of an offence such as dowry-death maintains a high level of accuracy and candidness. I.O. was also an integral part of prosecution. Therefore, copy of the order be sent to the DG Police Rajasthan and S.P. concerned for information and necessary action.

(RAJENDRA PRAKASH SONI),J

25-Payal/-