

Avinash vs State Of Rajasthan (2024:Rj-Jd:10539) on 1 March, 2024

Author: Dinesh Mehta

Bench: Dinesh Mehta

[2024:RJ-JD:10539] HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR S.B. Criminal Miscellaneous Bail Application No. 16044/2023 Avinash S/o Shri Amar Chand, Aged About 25 Years, R/o Ward No. 10 Sadhuwali Tehsil & District Sri Ganganagar (At Present Lodged In Central Jail Sri Ganganagar)

---Petitioner Versus

1. State Of Rajasthan, Through PP

2. Gopi Ram S/o Shri Banwari Lal, Aged About 45 Years, R/o Ward No 29 Near Water Tanki Basanti Chook Vasudev Nagar Sri Gnaganagar Raj

---Respondents For Petitioner(s) : Mr. S.R. Godara For Respondent(s) : Mr. Arun Kumar, Public Prosecutor JUSTICE DINESH MEHTA Order 01/03/2024

1. The present bail application has been filed by the applicant under Section 439 of the Cr.P.C. seeking regular bail in connection with FIR No. 117/2023 registered at Mahila Police Station, Sri Ganganagar, District Sri Ganganagar for the offences under Sections 304-B, 302, 201, 406 and 498-A of Indian Penal Code.

2. Learned counsel for the applicant submitted that a false case for the offences under Sections 304-B, 406 and 498-A of Indian Penal Code has been registered against the applicant without there being any evidence. He navigated the Court through the statements of all the neighbours namely Smt. Rani, Sushil Kumar and Ramdas and contended that none of them have deposed that [2024:RJ-JD:10539] (2 of 4) [CRLMB-16044/2023] the deceased was ever pressurized or harassed for demand of dowry or otherwise by the applicant.

3. Learned counsel for the applicant submitted that while dealing with the entire evidence, this Court has granted bail to the co-accused Raju Devi (mother of the applicant) vide order dated 17.11.2023 passed in the case of Raju Devi vs. State of Rajasthan & Anr. (S.B. Cr. Misc. Bail Application No. 13193/2023) and the applicant's case is not different, except that he happens to be husband of the deceased.

4. Learned Public Prosecutor vehemently opposed the bail application, but was not in a position to point out any documentary or oral evidence due to which it can be said that the applicant had harassed the deceased to such an extent that she was compelled to commit suicide.

5. In the case of Raju Devi (supra), this Court has observed thus:

"2. Mr. Godara, learned counsel for the applicant navigated the Court through the statement of Smt. Rani, Sushil Kumar and Ramdas, the neighbours of the present applicant in whose house the deceased daughter-in-law used to live and highlighted that none of them have deposed that the deceased was ever pressurized or harassed for dowry or otherwise.

3. He argued that there is no incriminating evidence, except for the statement of the complainant (father of the deceased) and her brother to indicate that the applicant has ever harassed the deceased (daughter-in-law) to such an extent that she was forced to commit the suicide and hence, no case is made out against the applicant.

4. Learned Public Prosecutor argued that there is a presumption in case of death within 7 years of the marriage and the burden to dislodge such [2024:RJ-JD:10539] (3 of 4) [CRLMB-16044/2023] presumption lies upon the family members of the deceased (daughter-in-law).

5. Learned Public Prosecutor was, however, not in a position to show any documentary or oral evidence with the charge-sheet so as to bring home the charge leveled against the applicant.

6. Mr. Jagga, learned counsel for the complainant vehemently opposed the bail application of the applicant by arguing that in the face of the statutory presumption, no indulgence can be granted to the applicant. He relied upon the statement given by the complainant and his son and prayed that no indulgence be granted.

7. He submitted that complainant and his family members have made 3 attempts to resolve the dispute between the deceased and her husband, but because of the nature of the applicant and her son (husband of the deceased) the matrimony always remained under stress, for which the deceased had to commit suicide.

8. Heard learned counsel for the parties and perused the record.

9. Having regard to the facts and circumstances of the case and on perusal of the statement of the neighbours, this Court is of the prima-facie view that the allegation that the deceased was harassed by the present applicant for dowry or otherwise is difficult to be proved. The only material to implicate the present applicant is, the statement of the complainant (father of the deceased) and his son, who are interested witnesses.

10. Such being the position and in absence of any incriminating evidence, the applicant (mother-in-law of the deceased), who is behind bars since 01.09.2023 cannot be asked to wait till the trial is over, particularly when the charge-sheet has

been filed. The trial of the case is likely to take substantial time, hence, I deem it just and proper to grant bail to [2024:RJ-JD:10539] (4 of 4) [CRLMB-16044/2023] the accused-applicant under Section 439 of the Cr.P.C."

6. Heard learned counsel for the parties and perused the record.

7. Following the reasoning given in the case of Raju Devi (supra), the present bail application is also allowed.

8. It is ordered that the applicant Avinash S/o Shri Amar Chand arrested in connection with the FIR No. 117/2023 registered at Mahila Police Station, Sri Ganganagar, District Sri Ganganagar shall be released on bail on his furnishing personal bond in the sum of Rs.50,000/- and two sureties of Rs.25,000/- each to the satisfaction of the trial Court.

9. Applicant shall be required to appear before that Court on all dates of hearing and as and when called upon to do so.

10. Needless to mention that the above observations made by this Court are on the basis of material so far produced before the Court. These are only prima-facie observations and the same shall however, not come in the way of the trial Court to take independent view of the matter, based on ocular and oral evidence, while finally deciding the case.

(DINESH MEHTA),J 7-Mak/-

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