

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. _____ OF 2009
(Arising out of S.L.P. (Crl.) No. 7460 of 2007)

Dhuk Singh

.....Appellant

Versus

State of Rajasthan & Anr.

....Respondents

J U D G M E N T

Dr. ARIJIT PASAYAT, J.

1. Leave granted.
2. Challenge in this appeal is to the grant of bail to respondent No.2 who had applied for bail during the pendency of the proceedings relating to FIR No.20/2007 Police Station, Syala, District Jalore.
3. A learned Single Judge of the Rajasthan High Court at Jodhpur allowed the bail application. The High Court stated that the question as to whether respondent No.2 was to be added as an accused is the subject

matter of examination by the High Court, while considering the scope and ambit of Section 169 of the Code of Criminal Procedure, 1973 (in short 'Code'). The High Court did not examine the case on merits and on that score alone accepted the prayer for bail. It needs to be noted that learned Sessions Judge, Jalore, had rejected the bail application on considering the nature of allegations against the present respondent No.2.

4. The informant had filed the present appeal questioning grant of bail to respondent No.2. It is submitted that contrary to the view expressed by this Court in a large number of cases, without indicating any reason the order granting bail was passed. Learned counsel for the State supported the stand of the appellant. On the contrary learned counsel for respondent No.2 submitted that the scope and ambit of Section 319 Cr.P.C. was elucidated by this Court in Dharam Pal & Ors. v. State of Haryana & Anr. (2004 (13) SCC 9) and, therefore, the High Court was justified in granting bail.

5. The parameters to be kept in view while dealing with an application for bail have been indicated by this Court in several cases; for example Anwari Begum v. Sher Mohd. (2005 (7) SCC 325), Chaman Lal v. State of U.P. (2004 (7) SCC 525), Anil Kumar Tulsiyani v. State of U.P. (2006 (9) SCC 425) and State represented by Inspector of Police, T.N. v. Eslian @

Jothi Basu (2006 (9) SCC 785). It has been held that the court considering the bail application has to consider among other circumstances the following:

(i) the nature of accusations and the severity of punishment in case of conviction and the nature of supporting evidence; (ii) reasonable apprehension of tampering with the witness or apprehension of threat to the complainant, and (iii) prima facie satisfaction of the court in support of the charge.

6. In that view of the matter we set aside the impugned order of the High Court and remit the matter to it for fresh consideration. Needless to say that the High Court shall dispose of the matter by a reasoned order.

7. The appeal is disposed of accordingly.

.....J.
(Dr. ARIJIT PASAYAT)

.....J.
(ASOK KUMAR GANGULY)

New Delhi,
February 09, 2009