



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



S.B. Criminal Miscellaneous Bail Application No. 5730/2024

Narayan Lal @ Narayan Nath S/o Shankar Nath Kalbeliya, Aged About 28 Years, R/o Bheelo Ki Basti, Police Station Kachhola, District Bhilwara. (At Persent Lodged In District Jail Bhilwara)

-----Petitioner

Versus

State of Rajasthan through PP

-----Respondent

For Petitioner(s) : Mr. Deepak Menaria
For Respondent(s) : Mr. Arun Kumar, PP

HON'BLE MR. JUSTICE RAJENDRA PRAKASH SONI

Order

Reportable

03/07/2024

1. Arrested in furtherance of FIR No.72/2022, registered at Police Station Kacchola, District Bhilwara, petitioner has filed this application under Section 439 Cr.P.C. for releasing him on bail. The petitioner is charged for offences punishable under Sections 457, 341, 323, 363, 366, 376(2) (n), 376-D of IPC and Section 5 (G) (L)/6 of the POCSO Act.
2. I have considered the rival submissions made by learned counsel for the petitioner as well as learned public prosecutor and perused the record.
3. I have given my anxious consideration to the rival submissions with reference to material placed before me.
4. On perusal of the record and upon consideration of the submissions, it would be clear that FIR dated 17.06.2022 was lodged against two unknown persons and statement under Section



161 of the Cr.P.C. was recorded on 18.06.2022. Thereafter, on 04.11.2023 i.e. after lapse of sixteen months, a subsequent statement of prosecutrix were recorded. Wherein, still the petitioner was not implicated to the incident. The significant aspect of case of the complainant is that prior to recording of said subsequent statement, prosecutrix herself, her father and mother filed a representation dated 25.07.2023 before the Superintendent of Police, Bhilwara, wherein, a totally different story was brought forward for the first time in which it was stated that earlier prosecutrix was married to one Ajay and due to some dispute in relation to marriage, the prosecutrix and her father wanted to get rid of that marriage. For that purpose, they planned a concocted story and they themselves tried to malign character of the prosecutrix so that said Ajay himself abandoned the prosecutrix and family of complainant can escape any social responsibility of possible payment of money to Ajay. This representation is very well part of the challan papers. Only evidence available against the petitioner is delayed test identification parade. In considered view of this Court, the petitioner has availed himself a substantial ground so as to question the case of the prosecution.

5. Having considered the material available on record; the arguments advanced by counsel for the petitioner particularly the facts narrated above and the fact that petitioner is in custody since 02.11.2023; that bail rejection order goes to show that petitioner is not involved in any other case.; that trial is likely to take its own considerable time and taking note of all these aspects I do not intend to go into the merits of the matter but of the considered view that the petitioner has available to him



substantial grounds so as to question the prosecution case and no useful purpose would be served by keeping the petitioner in detention for an indefinite period therefore, I am inclined to grant indulgence of bail to the petitioner at this stage.

6. Consequently, the present bail application is allowed and it is directed that the accused-petitioner **Narayan Lal @ Narayan Nath S/o Shankar Nath Kalbeliya**, arrested in connection with the F.I.R. No.72/2022, registered at Police Station Kacchola, District Bhilwara shall be released on bail provided he furnishes a personal bond and two surety bonds of sufficient amount to the satisfaction of the learned trial court with the stipulation to appear before that Court on all dates of hearing and as and when called upon to do so. This order is subject to the condition that accused, within 7 days of his release, and sureties on the day of furnishing bail, will also furnish details of their all bank accounts, with bank and branch name, in shape of an affidavit, and submit legible copy of their Aadhar cards as well as copy of front page of Bank pass book, for smooth recovery of penalty amount, if there arise a need for recovery of penalty under Section 446 Cr.P.C in future.

(RAJENDRA PRAKASH SONI),J

40-suraj/-