



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

S.B. Criminal Miscellaneous Bail Application No. 10463/2024

Dudaram S/o Shri Heeraji, Aged About 25 Years, R/o Sindhari,  
P.s. Ramseen, Dist. Jalore (Presently Lodged In Sub Jail,  
Bhinmal)

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent

For Petitioner(s) : Mr. Sheetal Kumbhat  
For Respondent(s) : Mr. Ramesh Devasi, Dy.G.A.

**HON'BLE MR. JUSTICE FARJAND ALI**

**Order**

**20/08/2024**

1. The jurisdiction of this Court has been invoked by way of filing an application under Section 439 Cr.P.C. at the instance of accused-petitioners. The requisite details of the matter are tabulated herein below:

| S.No. | Particulars of the Case           |   |
|-------|-----------------------------------|---|
| 1.    | FIR Number                        | 121/2021  |
| 2.    | Concerned Police Station          | Jaswantpura   |
| 3.    | District                          | Jalore  |
| 4.    | Offences alleged in the FIR       | Sections 143 & 302 of IPC and Section 3(2) (v) of SC/ST Act |
| 5.    | Offences added, if any            | Section 302 & 120-B of IPC                                  |
| 6.    | Date of passing of impugned order | 25.04.2024  |

2. It is contended on behalf of the accused-petitioners that no case for the alleged offences is made out against them and their incarceration is not warranted. There are no factors at



play in the case at hand that may work against grant of bail to the accused-petitioners and they have been made an accused based on conjectures and surmises.

3. Contrary to the submissions of learned counsel for the petitioners, learned Public Prosecutor opposes the bail application and submits that the present case is not fit for enlargement of accused on bail.
4. I have considered the submissions made by both the parties and have perused the material available.
5. Admittedly, the eye witness account of the incident is not available and the entire case of the prosecution hinges upon so called circumstantial evidence. One of the circumstances as pleaded by the prosecution would be the inimical relationship between the parties, the next would be the recovery of the blood smeared cloth and the third is the confessional statements made by the petitioners and the other accused to the Investigating Officer while in police custody. More or less, the case of the prosecution is based on surmises and conjectures *sans* any legally admissible evidence. It is story of the prosecution that after commission of the crime the accused persons met with an accident and got inured. If the above story is taken as it is then the very foundation of recovery of blood smeared cloth of the accused would fall on the earth as the preposition cannot be ruled out that the blood may be of the accused himself, since no blood group has been detected in the FSL report. Serious doubt seems to be a reason behind arrest of the petitioners in the





alleged crime, however, it is well nigh settled that suspicion, however, it may grave, cannot be a substitute or legal proof, reliance can be placed upon the judgment passed Hon'ble the Supreme Court in the case of **Ashish Batham vs. State of Madhya Pradesh reported in AIR 2002 SC 3206**. Simply because of some ordinary kind of tiff cannot be taken as an evidence of motive to kill the deceased. The petitioners are behind the bars since November 2021 and there is high probability that the trial may take long time to conclude. There is no apprehension that he would flee from justice. I see no reason to allow his further incarceration. Thus, taking into account the totality of facts and circumstances, it is deemed suitable to grant the benefit of bail to the petitioners in the present matter.

5. Accordingly, the instant bail application under Section 439 Cr.P.C. is allowed and it is ordered that the accused-petitioners as named in the cause title shall be enlarged on bail provided they furnish a personal bond in the sum of Rs.50,000/- with two sureties of Rs.25,000/- each to them to the satisfaction of the learned trial Judge for their appearance before the court concerned on all the dates of hearing as and when called upon to do so.

**(FARJAND ALI),J**

81-chhavi/-

