



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal Miscellaneous Bail Application No. 6943/2020

Vinod Kumar @ Bholaram S/o Shri Chiranjilal, R/o Malarna Chord
Ps Malarna Dungar Dist. Sawaimadopur Raj. (At Present Accused
Confined In Central Jail Sawaimadopur)

----Petitioner

Versus

State Of Rajasthan, Through Pp

----Respondent



For Petitioner(s) : Mr. Shyam Bihar Gautam
For Respondent(s) : Mr. Sher Singh Mahla, PP

HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Order

29/06/2020

This bail application has been filed under Section 439 Cr.P.C. in connection with FIR No.40/2020 registered at Police Station, Malarna Dungar, District Swaimadhpor, for offence under Sections 457, 354(A), 354(B), 506 of IPC and Sections 7, 8 of POCSO Act.

Learned counsel for the petitioner submits that the petitioner was first arrested for the offence under Section 151 Cr.P.C. and was produced before the Sub-Divisional Magistrate and released. Thereafter, an FIR was registered in the evening for allegations under Section 354(A) and 354(B) IPC along with other provisions against the accused petitioner although father of the prosecutrix had not given any such statement at the time of initial arrest of the accused petitioner. The observations have come in the trial Court's order also.



Learned Public Prosecutor opposes the bail application and submits that the FIR was registered later on and statement under Section 164 Cr.P.C. has also been recorded.

I have carefully considered the submissions as above and perused the charge-sheet, but without commenting on merits of the case and on the statement, it appears that initially, the accused was arrested and handed-over by the parents of the prosecutrix and at that stage, no allegations were levelled against the accused petitioner and thereafter, the FIR was lodged after a delay of one day.



I have also gone through the order passed by the learned Judge, who seems to have made some sketching remarks against the concerned police officials. It appears that Judicial Officer seems to be much influenced by the newspaper report cuttings and his judgment is influenced by the same. While deciding a bail application, the Court must restrain itself to the facts of the case only and merely because, there had been certain other instances in the district relating to cases of similar nature, the bail application cannot be rejected on the said ground. The judicial restraint must be maintained by the Officers specially of the level of the District Judge. Remarks made by the learned Judge, Special Court (POCSO Cases), Sawai Madhopur, of the nature that the existence of the court, administration and police itself is a question-mark is wholly unwarranted. The concerned Judge is directed to remain careful in future in making such remarks in his orders. Therefore, the directions issued are expunged and the concerned Judge is cautioned to remain focused only to the case presented before him instead of getting diverted on other issues.



While taking into consideration overall the facts and circumstances of the case, I deem it just and proper to enlarge the petitioner on bail.

Therefore, this bail application is allowed and it is ordered that the accused petitioner - Vinod Kumar @ Bholaram S/o Shri Chiranjilal be released on bail under Section 439 Cr.P.C. in connection with aforesaid FIR provided he furnishes a personal bond of Rs.20,000/- with one surety in the like amount to the satisfaction of the concerned Magistrate with the stipulation that he shall comply with all the conditions laid down under Section 437(3) Cr.P.C.

A copy of this order be sent to the learned Judge, Special Court (POCSO Cases), Sawai Madhopur.

(SANJEEV PRAKASH SHARMA),J

SAURABH YADAV/36

