

Rajasthan High Court - Jodhpur

Mahendra Kathat vs State on 20 November, 2019

Bench: Vijay Bishnoi

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR S.B. Criminal Miscellaneous Bail Application No. 13438/2019 Mahendra Kathat S/o Beli Kathat, Aged About 27 Years, By Caste Kathat Musalman, R/o Bayla Thad Ka Vadiya, Jhak Police Thana, Beawar Sadar Ajmer. (At Present Lodged In Sub Jail Balotra).

----Petitioner Versus State, Through P.p.

----Respondent

For Petitioner(s) : Mr. BR Godara  
For Respondent(s) : Mr. Mohammad Javed Gouri, PP

HON'BLE MR. JUSTICE VIJAY BISHNOI

Judgment / Order

20/11/2019

Heard learned counsel for the petitioner as well as learned Public Prosecutor and also perused the material on record.

The petitioner has been arrested in FIR No.394/2018 of Police Station Balotra District Barmer for the offences punishable under Sections 8/15, 25 of NDPS Act. He has preferred this bail application under Section 439 Cr.P.C.

Learned counsel for the petitioner has submitted that as per the prosecution story, huge quantity of poppy straw was recovered by the police on 13.10.2018 when it was being transported in Truck No. RJO1GB8515 by co-accused Mangilal son of Mohanlal. The police after investigation have concluded that though the above truck is registered in the name of one Firoz son of Bashir Ahmed resident of Purana Bakra Mandi, Delhi Gate, Ajmer, (2 of 3) [CRLMB-13438/2019] however, he sold the said truck to the petitioner on 17.05.2017 through an agreement to sale and on the basis of said evidence, the police filed charge-sheet against the petitioner for the offence punishable under Sections 8/25 and 29 of NDPS Act. It is submitted that now the statements of Investigating Officer Harchandram PW-2 have been recorded and in his cross examination, he has specifically admitted that during the course of investigation, no such evidence was collected by him by which it can be proved that the petitioner was in conversation with any other co-accused persons, from whom, the narcotic contraband was recovered. The Investigating Officer has further admitted that he has also not collected any evidence of this effect that the petitioner was aware that in the said truck, the narcotic contraband was being transported by other persons. The Investigating Officer has specifically admitted that no notice under Section 133 of Motor Vehicles Act was given to the registered owner

of the said truck namely Firoz by him and there is no evidence which proves that the petitioner was the owner of the said truck. It is submitted that when the police have failed to establish that the petitioner was in any manner in contact with the co-accused persons, from whose possession huge quantity of poppy straw was recovered and when the police have failed to establish the ownership of the petitioner with the aforesaid truck, it is clear that he has falsely been implicated in this case.

Learned Public Prosecutor has opposed the bail application. Having regard to the totality of the facts and circumstances of the case, without expressing any opinion on the merits of the (3 of 3) [CRLMB-13438/2019] case, I deem it just and proper to grant bail to the accused petitioner under Section 439 Cr.P.C.

Accordingly, this bail application filed under Section 439 Cr.P.C. is allowed and it is directed that petitioner Mahendra Kathat S/o Beli Kathat shall be released on bail in connection with FIR No.394/2018 of Police Station Balotra District Barmer provided he executes a personal bond in a sum of Rs.50,000/- with two sound and solvent sureties of Rs.25,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

(VIJAY BISHNOI),J SURABHII/42-

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