

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.685 OF 2020
(Arising out of SLP (Criminal) No.4501 of 2020)

RAJAT KUMAR

Appellant

VERSUS

STATE OF RAJASTHAN & ANR.

Respondents

ORDER

Leave granted.

This appeal challenges the order dated 28.07.2020 passed by the High Court of Judicature for Rajasthan, Bench at Jaipur in S.B. Criminal Bail Application No.7828 of 2020.

Respondent no.2 (Ashish s/o Bankelal) is one of the accused in crime registered pursuant to FIR No.0502 dated 23.11.2019 with Police Station Kotwali Dholpur, District Dholpur, Rajasthan for the offences punishable under Sections 143, 323, 341, 302, 447 and 427 IPC.

The version of the informant as noted in the FIR was as under:

“Today on 23.11.19 at about 5 PM in the evening when Om Prakash Koli, Banwari Koli reached the agricultural field for sowing Ashish Lodha s/o Bankelal Lodha, Bankelal, Gokul, Mahendra sons of Shyamlal, Padam Singh s/o Bankelal, Omprakash s/o Gokul, Molkan s/o Narayan Singh, Rajveer s/o Lokman, Snehlata w/o Ashish Lodha, Keshar w/o Bankelal reached at the agricultural land and at about 5.00 PM in

the evening they all jointly beat Omprakash and Banwari. Banwari came to father of the complainant to inform him about the incident then the complainant and his father reached at their said agricultural land at Tagawali then all the aforesaid persons already present there attacked with lathi on father of the complainant. Ashish, Bankelal, Gokul, Mahendra, Omkar, Padam Singh, Rajveer Lokman made lathi blow on head of father of the complainant and rest persons beaten him with fist-kick. Ashish moved tractor on Motorcycle No.RJ.11.SM.526 of Banwari parked there and damaged the same so as to show murder as accident. All these persons murdered father of the complainant at the spot itself. Suresh, Bejnath, Gaurav were present at the spot. I report take legal action.”

After conclusion of investigation, charge-sheet was filed stating *inter alia* that the case for the offences punishable under Sections 147, 149, 323, 341, 447, 427, 302 read with Section 120B IPC was made out against the accused Ashish Lodha son of Bankelal Lodha, Padam Singh s/o Bankelal Lodha, Mahendra Singh Lodha s/o Shyamlal Lodha, Rajveer s/o Lokman, Lokman s/o Narayan Singh Lodha and Banke Lal Lodha s/o Shyamlal Lodha, while the case in respect of others was not found to have been made out. The charge-sheet also asserted:.

“(1) From the antecedents received of the accused persons of the case it is revealed that five criminal cases are registered against Bankelal Lodha accused No.1 of the case with police station Kotwali. (2) 19 criminal cases are registered against accused Ashish Lodha. (3) 7 criminal cases are registered against Mahendra Singh Lodha accused of the case. (4) 5 criminal cases are registered against accused Omkar.”

The application for bail preferred by respondent no.2 was granted by the High Court by order under appeal observing *inter alia*:

“5. It is contended by counsel for the petitioner that co-accused has been enlarged on bail by this Court. No overt act is assigned to the petitioner. Petitioner himself has sustained many injuries. It is also contended that there is cross-FIR. On the petitioner side also, one of the persons sustained three fractures. It is also contended that in the FIR, it is mentioned that the tractor got overturned on the deceased.”

In this appeal preferred by the complainant, we heard Mr. Hari Haran, learned counsel for the complainant and Mr. Varun Thakur, learned counsel for respondent no.2. No appearance was entered on behalf of the State.

With the assistance of the learned counsel for the parties, we have gone through the record and do not find ourselves in agreement with the conclusion drawn by the High Court while granting bail to respondent no.2.

Respondent no.2 has placed on record a Chart giving details about 19 cases referred to in the charge-sheet. It is submitted that multiple number of crimes were registered with respect to some of the transactions and as such the number was inflated. Nonetheless, the chart records that the first of the crimes registered against respondent no.2 was in the year 1995 and even if the crimes where multiple reporting was done are discounted, the criminal antecedents of respondent no.2 are quite clear as adverted to in the charge sheet.

It was also submitted that respondent no.2 had suffered injuries in the transaction. What can be gathered from the concerned medical report is that all the injuries were on the arms and legs of respondent no.2 and though there is a reference that three of the injuries were suspected fractures, the role of the respondent no.2 as disclosed in the FIR and other documents does not entitle him

to the relief of bail at this stage.

We, therefore, allow this appeal, set-aside the order passed by the High Court and direct respondent no.2 to surrender himself before the concerned Police Station on or before 16.11.2020, failing which the concerned Police Station shall take appropriate steps to take respondent no.2 in custody.

We have been apprised that the charges have been framed in the matter. The Trial Court shall conclude the trial at the earliest.

The discussion in the present order shall not be taken as reflection on merits at any stage of the trial.

The Registry is directed to send a copy of the counter affidavit filed by respondent no.2 including Annexure R-3 to the Registry of the High Court in a sealed cover.

This appeal is allowed in the aforesaid terms.

.....J.
[UDAY UMESH LALIT]

.....J.
[S. RAVINDRA BHAT]

.....J.
[HRISHIKESH ROY]

NEW DELHI;
OCTOBER 15, 2020.

