

A

DHUK SINGH

v.

STATE OF RAJASTHAN & ANR.
(Criminal Appeal No. 241 of 2009)

B

FEBRUARY 9, 2009

[DR. ARIJIT PASAYAT AND ASOK KUMAR
GANGULY, JJ]

C

Code of Criminal Procedure, 1973 – s. 319 – Power to proceed against other persons appearing to be guilty of offence – Bail application during pendency of proceedings relating to FIR – Grant of, by High Court stating that it was to examine whether applicant was to be added as accused, while considering the scope of s. 169 Cr.P.C. – Correctness of – Held: High Court granted bail without indicating reasons – Thus, order of High Court set aside – Matter remitted for afresh consideration.

D

E

Bail – Grant of – Parameters to be considered – Explained.

F

Dharam Pal & Ors. v. State of Haryana & Anr. 2004 (13) SCC 9; Anwari Begum v Sher Mohd. 2005 (7) SCC 325; Chaman Lal v. State of U.P. 2004 (7) SCC 525; Anil Kumar Tulsiyani v. State of U.P. 2006 (9) SCC 425 and State represented by Inspector of Police, T.N. v. Eslian @ Jothi Basu 2006 (9) SCC 785, referred to.

Case Law Reference:

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| 2004 (13) SCC 9 | Referred to. | Para 4. |
| 2005 (7) SCC 325 | Referred to. | Para 5. |
| 2004 (7) SCC 525 | Referred to. | Para 5. |
| 2006 (9) SCC 425 | Referred to. | Para 5. |

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2006 (9) SCC 785 **Referred to.** **Para 5.** **A**

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal
No. 241 of 2009.

From the Judgment and final Order dated 3.8.2007 of the
High Court of Judicature for Rajasthan at Jodhpur in S.B. **B**
Criminal Misc. Bail Petition No.1721 of 2007.

Aishwarya Bhati Rekha Giri and Sweta Rani for the
Appellant.

V.J. Francis and Anupam Mishra for the Respondents. **C**

The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J.1. Leave granted.

2. Challenge in this appeal is to the grant of bail to
respondent No.2 who had applied for bail during the pendency
of the proceedings relating to FIR No.20/2007 Police Station,
Syala, District Jalore. **D**

3. A learned Single Judge of the Rajasthan High Court at
Jodhpur allowed the bail application. The High Court stated that
the question as to whether respondent No.2 was to be added
as an accused is the subject matter of examination by the High
Court, while considering the scope and ambit of Section 169
of the Code of Criminal Procedure, 1973 (in short 'Code'). The **E**
High Court did not examine the case on merits and on that
score alone accepted the prayer for bail. It needs to be noted
that learned Sessions Judge, Jalore, had rejected the bail
application on considering the nature of allegations against the
present respondent No.2. **F**

4. The informant had filed the present appeal questioning
grant of bail to respondent No.2. It is submitted that contrary to
the view expressed by this Court in a large number of cases,
without indicating any reason the order granting bail was **G**

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A passed. Learned counsel for the State supported the stand of
the appellant. On the contrary learned counsel for respondent
No.2 submitted that the scope and ambit of Section 319 Cr.P.C.
was elucidated by this Court in *Dharam Pal & Ors. v. State of
Haryana & Anr.* (2004 (13) SCC 9) and, therefore, the High
B Court was justified in granting bail.

5. The parameters to be kept in view while dealing with
an application for bail have been indicated by this Court in
several cases; for example *Anwari Begum v. Sher Mohd.* (2005
C (7) SCC 325), *Chaman Lal v. State of U.P.* (2004 (7) SCC
525), *Anil Kumar Tulsyani v. State of U.P.* (2006 (9) SCC
425) and *State represented by Inspector of Police, T.N. v.
Eslian @ Jothi Basu* (2006 (9) SCC 785). It has been held that
the court considering the bail application has to consider among
other circumstances the following:

D (i) the nature of accusations and the severity of
punishment in case of conviction and the nature of
supporting evidence; (ii) reasonable apprehension of
tampering with the witness or apprehension of threat to the
E complainant, and (iii) prima facie satisfaction of the court
in support of the charge.

6. In that view of the matter we set aside the impugned
order of the High Court and remit the matter to it for fresh
F consideration. Needless to say that the High Court shall dispose
of the matter by a reasoned order.

7. The appeal is disposed of accordingly.

N.J.

Appeal disposed of.