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IMAMUDIN V. STATE OF RAJASTHAN (2023 SCC ONLINE SC 782)

AUTHORED BY - RIFA N

1. DESCRIPTION OF THE CASE

- **FORUM**- SUPREME COURT OF INDIA
- **PETITION**- SPECIAL LEAVE PETITION (ARTICLE 136 OF THE CONSTITUTION)
- **PETITIONER**- IMAMUDIN
- **RESPONDENT**- STATE OF RAJASTHAN
- **BENCH**- DIVISION BENCH (S.K. KAUL J., SUDHANSHU DHULIA J.)
- **DATE OF DECISION**- 05.07.2023
- **STATUTES** - IPC, 1860 AND POCSO, 2012
- **PROVISIONS**- SECTIONS 366,376,384,323,328 AND 120- B OF THE IPC, 1860 AND SEC. 3, 4 OF POCSO, 2012

2. FACTS OF THE CASE

The appellant and the prosecutrix were **neighbours**. Being next door neighbors, the prosecutrix and the appellant developed a romantic relationship. The prosecutrix and her family were Hindus, whereas the appellant was a member of the Muslim community. The couple was compelled to elope due to religious issues. At the time, the prosecutrix was a minor.

They later entered into an **agreement of live-in relationship** on 25-08-2022 to attain a societal status. The appellant was planning to get married to the girl. The appellant and the prosecutrix went to a local court in Rajasthan to get their **marriage registered**. But moments before registering their wedding the girl's family traced them there and hence, they were forced to flee from the court.

After this, the prosecutrix's father filed a **missing report**. The couple applied to the Rajasthan High Court for police protection. The Rajasthan High Court ordered the State government to provide the pair with police protection on August 30, 2022, as a temporary remedy. But the woman was supposedly taken away by her relatives on the day of the hearing. The couple did not show up for the hearing, thus the appeal for protection was dropped on the following day.

The family of the prosecutrix convinced her to give a statement against the appellant under **Section 164** of CRPC, 1973. This was followed by registration of a **First Information Report (FIR)** under Sections 366, 376, 384, 323, 328, 120-B of IPC and Sections 3 and 4 of the POCSO Act, 2012 which resulted in the **arrest** of the appellant. Subsequently the appellant files for **bail** before the **trial court** of Rajasthan. The **trial court** rejects the bail application. Appellant files appeal against the order of the Trial Court. High court of Rajasthan **upholds the order** of the trial court. The appellant then files a **special leave petition** before the Hon'ble Supreme Court of India under Article 136 against the order of the High Court.

3. ISSUE

- Whether the Trial Court and the High Court of Rajasthan have erred in dismissing the bail petition?

4. LAW INVOLVED

Sec. 437 CRPC, 1973- When any person accused of, or suspected of, the commission of any **non-bailable** offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a court other than the high court or court of session, he may be released on bail.

NO BAIL-

- Offence punishable with death or imprisonment for life or
- Offence is cognizable and he/she is a previous convict.

Section 480 of the Bharatiya Nagarik Suraksha Sanhita, 2023, provides when bail may be taken in case of non-bailable offences.

5. ANALYSIS OF THE CASE

5.1. CONTENTIONS OF THE PETITIONER

- Namit Saxena, the petitioner Imamudin's attorney, argued in court that his client was having a consensual relationship with the girl and that the complaint was baseless.
- The petitioner was accused of forcing the victim to have sex with him when they were brought to a hotel. Saxena contended that the hotel, where it was claimed he took the respondent and coerced her into having sex with him, did not have any CCTV footage.
- He further argued that the prosecutrix altered her testimony during the interrogation because she felt threatened by her relatives. He went on to say that the current lawsuit was

brought against the petitioner and his family in order to accommodate the respondent's family's demands.

5.2.CONTENTIONS OF THE RESPONDENT

- The Rajasthan government counter-affidavit, which opposed Imamudin's bail, stated that a woman's body is not a man's toy and that a man cannot use it to satiate his passions and desires by tricking a lady into agreeing to sex.
- According to the state authorities, the accused had sex with the complainant in this case by giving her sedatives that were laced into the tea. Therefore, they contended that the accused in this case committed the heinous act of rape and should be punished, and that the alleged consent that the accused claimed to have obtained was not voluntary consent and that the accused engaged in sexual relations with the prosecutrix by deceiving her about his true intentions.
- Therefore, they contended that the Special Leave Petition may be denied since the accused in this case has committed the heinous act of rape and should be appropriately punished for it.

5.3.DECISION BY THE SUPREME COURT

The Two Judge Bench comprising of Justice Sanjay Kishan Kaul and Justice Sudhanshu Dhulia held that “**Three factors weigh with us**”. They are:

1. Live-in relationship agreement dated 25-08-2022
2. Joint petition filed by parties seeking police protection, specifically as an inter-faith couple
3. Petitioner in custody for 9 months.

*The Supreme Court based on the above rationale **granted bail** to the appellant. The court has rightly balanced the presumption of innocence with the need to prevent abuse of personal liberty, considering the peculiar circumstances of the case. The Supreme Court's decision reflects the principle of "bail is the rule, jail is the exception," emphasizing personal liberty. **Bail is the rule, jail is an exception**’ - laid down by the Supreme Court in a landmark judgment of the *State of Rajasthan vs. Balchand, 1977 AIR 2447*. Bail in case of non-bailable offence is the discretion of the Court and there is no straight-jacket formula for granting bail, yet it is important to consider certain factors while granting the bail. In the case of *Rao Harnarain Singh Sheoji Singh v. The State, AIR1958P&H123*, the court enumerated several non-exhaustive yet relevant factors to be taken into account in bail decisions:*

1. The seriousness of the charge.
2. The nature of the accusation.
3. The severity of the potential punishment upon conviction.
4. The strength of the evidence supporting the accusation.
5. The risk of the applicant fleeing if granted bail.
6. The risk of witness tampering.
7. The expected length of the trial.
8. The applicant's ability to prepare their defense and access legal counsel.
9. The health, age, and gender of the accused individual.

The Trial Courts and the High Courts many at times do not follow these guidelines while granting bail. The growing number of bail challenges that make it all the way to the Supreme Court is proof of this. **Chief Justice of India D.Y. Chandrachud** has brought attention to the growing concern that trial courts are beginning to lose ground on the right to personal liberty, with jail time rather than bail being the norm. There is a growing reluctance on the part of trial judges to grant bail and hence this shows that there is a need to train the judges on this matter.

6. CONCLUSION

The case presents a challenging scenario involving complex personal relationships, societal norms, and legal intricacies. The appellant's contention of being in a consensual relationship with the prosecutrix, coupled with the absence of concrete evidence such as CCTV footage, raises doubts about the allegations against him. Moreover, the circumstances surrounding the filing of the FIR and the prosecutrix's statement under Section 164 of the CRPC are questionable, especially considering the alleged influence from her family. These factors suggest a need for a thorough and impartial investigation into the case.

The Supreme Court's decision to grant bail to the appellant appears justified, considering the factors weighed by the bench. The live-in relationship agreement, the joint petition for police protection, and the appellant's prolonged custody period indicate a need for fairness and balance in handling the case.

Furthermore, bail being the rule and jail the exception, as reiterated by the Supreme Court, underscores the importance of safeguarding personal liberty while ensuring justice is served. The court's emphasis on considering various factors before granting bail aligns with the principles of

fairness and equity in the legal system. In conclusion, the Supreme Court's decision seems to strike a balance between protecting personal liberty and ensuring justice in this sensitive case. It reflects a careful consideration of the circumstances and a commitment to upholding the principles of law and fairness.

