

M.Cr. C. No.4967/2012**31/7/2012**

Shri Vivek Singh, learned Counsel for the applicant.

Shri Amit Vyas, learned Counsel for the respondent/
State.

By this **second** application filed under section 439 of the Cr.P.C., applicant Kannu has moved the application for grant of bail being implicated in crime No.312/2012 registered by police station Jhabua for offence under Sections 323, 294, 307 of the IPC.

Counsel for the applicant has vehemently urged the fact that it was a case of false implication. Counsel has candidly admitted that this is the second bail application moved on behalf of the applicant for grant of bail. The earlier application has been dismissed as not pressed. Even if the prosecution allegations are considered, Counsel submitted that the offence under Section 307 of the IPC cannot be made against the present applicant since the prosecution allegations indicated that the wrong side of the axe is used. Counsel submitted that other co-accused Badiya and Laxman have already been granted bail by this Court in M.Cr.C.No.4625/2012 on 7/6/2012 under identical set of circumstances. Moreover

Counsel submitted that the present applicant and the injured are real brothers. Hence, on the grounds of parity, Counsel has prayed for grant of bail since the applicant is in jail since 15/5/2012.

Counsel for the respondent State, on the other hand, opposed the submissions of the Counsel for the applicant and has submitted that the injury received by the injured was grievous in nature. However, he has submitted that wrong side of the axe was used. However, Counsel prayed for dismissal of the application.

On considering the above submissions, material available in the case diary and looking to the nature of allegations, I find that the application needs to be allowed on the grounds of parity alone and it is hereby allowed. However, stringency condition needs to be imposed.

It is ordered that the applicant be released on bail on his furnishing a personal bond for a sum of **Rs.25,000/-** (Rupees Twenty five thousand only) with one surety in the like amount to the satisfaction of the Trial Court for his appearance before the concerned trial Court on all dates of hearing as may be fixed by the Trial Court in this behalf during the pendency of trial.

It is further directed that the applicant shall attend on each date of hearing of his trial before the concerned Court out of which this bail arises. In addition, he shall also mark his presence in the concerned police station on **first Sunday** of every month between 10 a.m. to 12 a.m during the pendency of the trial. Any default in attendance in Court and marking his presence in the concerned police station, would result in cancellation of bail granted by this Court thereby entitling the police to take the applicant in custody immediately.

It is also directed that the applicant shall abide by all the conditions enumerated under Section 437(3) of the Cr.P.C.

(Mrs. S.R. Waghmare)
Judge