

M.Cr.C. No.6131/12

31/08/2012

Shri Ashok Shukla, learned Senior Counsel with Shri A.K. Saxena, learned counsel for the applicant.

Shri R.S. Parmar, learned Counsel for the respondent State.

Shri Manish Sharma, learned Counsel for the objector.

By this application filed under Section 439 of the Cr.P.C. the applicant Kesar Singh has moved the application for grant of bail being implicated in Crime No.356/12 registered by police station Shajapur for offence under Sections 302, 307, 323, 147, 148 & 149 of the IPC.

Counsel for the applicant has vehemently urged the fact that the applicant is 80 years old and has been falsely implicated in the matter. Even if the prosecution allegations are considered, Counsel submitted that the applicant has not named in the FIR nor has been any specific overt act been assigned to the present applicant by any of the witnesses. If at all the statement of the Dilip Singh is considered, the witness has named the present applicant as being present on the spot,

wielding a lathi, but no overt act has been ascribed to him. Counsel prayed for grant of bail since the applicant has been arrested on 19.04.12.

Counsel for the objector, on the other hand has submitted that the applicant is only 69 years old and Jojan Singh the injured witness, has named the present applicant as having assaulted the deceased Dilip Singh falling down after receiving the gun shot injury. Counsel prayed for dismissal of the application.

Counsel for the respondent State has candidly admitted that the applicant is not named in the FIR. Counsel submitted that according to the arrest memo the applicant is 80 years of age. However, Counsel prayed for dismissal of the application.

On considering the above submissions, the impugned order and material available in the case diary and looking to the nature of allegations and fact that the applicant is in jail since 19.04.12, I find that the application needs to be allowed purely on humanitarian grounds. The application is, therefore, allowed.

However, stringent measures need to be imposed, therefore it is ordered that the applicant be released on bail on his furnishing a bail bond for a sum of **Rs.25,000/- (Rupees Twenty five thousand only)** with one surety of 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.

By way of abundant caution, it is further directed that he shall also mark his presence in the concerned police station on the first Sunday of every month between 10.00 a.m. to 12.00 noon during pendency of the trial. Any default in attendance in court and marking 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.

C. c. as per rules.

(Mrs. S.R. Waghmare)
Judge

soumya