

M.Cr.C. No.9784/2012**31.12.2012**

Shri Jameel Usmani, learned Counsel for the applicant.

Shri B.L. Yadav, learned Dy. Advocate General for the respondent/State.

By this application filed under Section 439 of the Cr.P.C. applicant Abdul Karim has moved the application for grant of bail being implicated in Crime No.417/12 registered by police station Malharganj, Indore for offence under Sections 147, 148, 149, 294, 323 and 302 of the IPC.

Counsel for the applicant has vehemently urged the fact that it is a case of false implication. Even if the prosecution allegations are considered, Counsel submitted that although applicant has been named in the FIR and there is no specific overt act ascribed except attacking the deceased by fist and kicks, whereas co-accused Abdul Wahid has already been granted bail by this Court in M.Cr.C.No.9480/2012 and the main accusations are against main accused Hyder, who was wielding iron pipe and the death occurred due to injury sustained on the head. Counsel submitted that on the grounds of parity alone the present applicant is entitled to the same. Hence Counsel prayed for grant of

bail since the applicant has been arrested on 08.09.2012.

Counsel for the respondent State, on the other hand, has opposed the submissions of the Counsel for the applicant and has submitted that the applicant was fully implicated in the matter. He, however, candidly admitted that the applicant has been implicated with the aid of Sections 147,148 & 149 of the IPC. Counsel has submitted that the co-accused Abdul Wahid had been granted bail under the similar circumstance. 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 08.09.2012, I find that it is a fit case for grant of bail. 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.

Cc. as per rules.

(Mrs. S.R. Waghmare)
Vacation Judge

Jyoti