

31.01.2014

Shri A. B. Tripathi, Advocate for the applicant.

Shri P.S. Raghuvanshi, Panel Lawyer for the respondent/ State.

Heard on the bail application.

Perused the case diary

This is third bail application under Section 439 of Cr.P.C. The first bail application has been dismissed vide order dated 28.11.2013 passed in M.Cr.C. No.9428/2013. The second bail application has been dismissed vide order dated 20.12.2013 passed in M.Cr.C. No.10277/2013. The applicant has been arrested in Crime No.550/13 registered at Police Station, Madhoganj, District Gwalior, for the offences punishable under Sections 8/21 of of N.D.P.S. Act.

As per the prosecution case, on receipt of information that four persons having smack for selling and are in Indigo Car bearing registration no.MP-13DR-9100 at Lakshman Dhaba, AB Road, police party reached there and apprehended the persons sitting in the Indigo Car. They disclosed their names. The applicant was found having polythene bag kept in the pocket, it was containing smack of 150gm. The same was seized.

It is submitted by learned counsel for the applicant that after dismissal of the second bail application co-accused Ajay Shivajirao Jadhav has been granted bail vide order dated 16.01.2014 passed in M.Cr.C. No.39/2014 by the co-ordinate Bench of this Court. Case of the applicant is identical with the co-

accused. It is further submitted that witness of seizure memo Santosh PW/1 and Ashok PW/2 have not supported the seizure from the applicant. Applicant is in custody since 15.10.2013. Trial will take some time. Therefore, the applicant be released on bail.

The application is opposed by learned Panel Lawyer.

Considering the fact that after dismissal of the first bail application co-accused Ajay Shivajirao Jadhav has been granted bail by the co-ordinate Bench of this Court and the witness of the seizure have not supported the seizure from the possession of the applicant, but without commenting on the merit of the case, the application is allowed. It is directed that the applicant shall be released on bail on his furnishing personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety in the like amount to the satisfaction of Trial Court.

This order will remain operative subject to compliance of the following conditions by the applicant :-

1. The applicant will comply with all the terms and conditions of the bond executed by him;
2. The applicant will cooperate in the investigation/trial, as the case may be;
3. The applicant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicant shall not commit an offence similar to the offence of which he is accused;
5. The applicant will not seek unnecessary adjournments during the trial; and

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6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

A copy of this order be sent to the Court concerned for compliance.

C.c. as per rules.

(D.K.Paliwal)
Judge

am/-