

M.Cr.C. No.9092/2014

(Kalicharan Vs. State of MP)

30.09.2014

Shri Jitendra Sharma, Advocate for applicant.

Shri Praveen Newaskar, Public Prosecutor for Respondent/
State.

Case Diary is perused.

Learned counsel for the rival parties are heard.

The applicant has filed this 2nd bail application u/S 439, Cr.P.C. for grant of bail. The applicant has been arrested by Police Station Porsa, District Morena in connection with Crime No.16/2012 registered in relation to the offences punishable u/Ss. 304-B, 498-A, 34 of IPC and u/S 3/ 4 of Dowry Prohibition Act .

Learned Public Prosecutor for the State opposed the application and prayed for its rejection by contending that on the basis of the allegations and the material available on record, no case for grant of bail is made out.

This second bail application has been filed after rejection of the earlier one which was dismissed as withdrawn on 19.09.2014 in M.Cr.C. No.8585/14, without being considered on merit.

The applicant is in custody since 5.09.2014, after bail granted to the applicant on 11.03.12 by the lower Court was cancelled by this Court on 18.03.2013 in M.Cr.C. No. 3975/2013 on the ground of registration of a subsequent offence bearing crime no. 152/2012 alleging offences punishable u/Ss 294, 506 Part II read with Section 34 of IPC.

It is contended by the learned counsel for the applicant that the application is aged about 72 years and is unable to bear the rigors of incarceration and shall abide by all the conditions imposed.

Since the applicant has misused the liberty granted by this Court, but considering the factor of age and that the applicant has suffered incarceration of about one month, the early conclusion of the trial is a bleak possibility and pre-trial detention is anathema to the concept of liberty and that there are no criminal antecedents of the applicant and the material placed on record does not disclose the possibility of the applicant fleeing from justice. This Court is

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inclined to extend the benefit of bail to the applicant but with certain stringent conditions in view of misuse of liberty granted by this Court.

Accordingly, without expressing any opinion on merits of the case, this application is allowed and it is directed that the applicant be released on bail on furnishing a personal bond in the sum of Rs.1,00,000/- (Rs. One Lac only) with two solvent sureties, each of Rs.50,000/-, to the satisfaction of the concerned 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
6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.
7. The applicant will mark his attendance before the trial Court once in a week.

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

C.c. as per rules.

(Sheel Nagu)
Judge