

## **MCRC-11465-2016**

*(KOMALCHAND Vs THE STATE OF MADHYA PRADESH)*

**30-11-2016**

Shri Ajay Ukas, learned counsel for the applicant-Komalchand.

Shri Sunil Gupta, learned counsel for the applicant-Hariram.

Shri Pankaj Vadhwani, learned Government Advocate for the non-applicant/State.

Heard with the aid of case-diary.

### **ORDER**

**THESE** are **first** bail applications under Section 438 of the Code of Criminal Procedure. The applicants are seeking anticipatory bail in connection with Crime No.397/2016 for the offence punishable under Sections 420 and 120-B of IPC, registered at Police Station-Annapurna, District-Indore.

As per the prosecution case, at a relevant time, applicant-Komalchand was RTO agent and resident of 18 MTH Compound, Indore. Two imported cars were registered on the basis of false address i.e. 18 MTH Compound, Indore, which is address of the applicant-Komalchand. At a relevant time, applicant Hariram Rohit was the ARTO and Rohit Attu was the clerk. The aforesaid offence has been registered against the applicants, Rohit Attu, Vijay Kumar Chawla and Zafar Thazhathepurayil (car owners). The offence was committed for evasion of tax.

Learned counsel for the applicant-Komalchand submits that the applicant is aged 77 years and permanent resident of Indore, having no criminal antecedents. If the prosecution case is taken on its face value, the alleged act is punishable under Sub Section 2 of Section 179 of Motor Vehicle Act, 1988, for which maximum punishment is imprisonment for 1 month or fine of Rs.500/-. The alleged offence has been committed in the year 2008. The applicant is ready to co-operate with the investigation. In such circumstances, he be granted anticipatory bail.

Shri Sunil Gupta, learned counsel for the applicant-Hariram submits that the applicant is a retired Government servant and permanent resident of Indore, having no criminal antecedents. The applicant has not hatched any conspiracy and has not cheated anybody. It was the duty of concerned clerk to verify the documents. The applicant has only signed the papers. He has not committed any offence, however, he is ready to co-operate with the investigation. In such circumstances, he be granted anticipatory bail.

On the other hand, learned Government Advocate for the non-applicant/State vehemently opposes the prayer and submits that the applicants have hatched the conspiracy for evasion of tax and on the basis of false documents, got registered the vehicles. In case they are granted anticipatory bail, they may temper the evidence, hence, prays for dismissal of the applications.

I have considered the overall facts of this case, I am of the view that the alleged offence was committed in the year 2008 and is depend on documentary evidence, hence, custodial interrogation of the applicants is not required. In such circumstances, the applicants have made out a case for granting anticipatory bail. Accordingly, the applications are **allowed**. It is directed that in the event of arrest the applicants shall be released on bail on submitting fixed deposit receipt (FDR) of **Rs.25,000/- (Twenty Five Thousand Rupees) each** of any nationalized bank in the name of District and Sessions Judge, Indore for two years in the Trial Court and upon their furnishing a personal bond in the sum of **Rs.1,00,000/- (One Lac Rupees) each** with one separate solvent surety in the like amount to the satisfaction of the arresting officer for their appearance in investigation as and when directed and required. The applicants are also directed that they will not threat, induce or make any promise to the prosecution witnesses and temper the evidence, otherwise their bail shall be cancelled. Facility of this bail shall remain available to the applicants during trial with the condition that when the final report shall be filed, the applicants would furnish fresh bail

bond as per this order. The applicants shall ensure that they would not commit any such offence during currency of bail and rest of the conditions stipulated under Section 438 (2) of the Code of Criminal Procedure shall be binding on them.

It is made clear that if the applicants will breach any of the condition, then this order shall automatically stand cancelled without reference to this Court and the concerning Court shall be free to take appropriate action to secure the presence of the applicants.

Certified copy as per rules.

**(JARAT KUMAR JAIN)**  
**JUDGE**