

## **MCRC-22401-2016**

*(GANESH JHARIA Vs THE STATE OF MADHYA PRADESH)*

**29-12-2016**

Shri Manish Datta, learned Senior Advocate assisted by Shri Jagtendra Prasad and Shri Rahul Sharma, learned counsel for the applicants.

Shri S.K. Shrivastava, learned PL for respondent -State. With the consent of the parties, this case is heard finally.

The case diary is perused.

The applicants have filed this first application under Section 439 of Cr.P.C. for grant of bail. The applicants have been arrested by the Police Station Gorakhpur, district Jabalpur in connection with Crime No. 779 of 2016 registered in relation to the offences punishable under Sections 353, 332, 294, 506, 147, 148, 149 of IPC.

Learned Senior counsel submits that the incident took place on 30.11.2016 at 17.30 hours. The FIR is lodged at 19.26 hours at Police Station Gorakhpur, which is at the distance of about 100 metres from the place of the incident.

Learned senior counsel for the applicants submits the court below did not enlarge the applicants on bail for a singular reason that on 9.12.2016 the investigation was going on and challan has not been filed. Shri Datt submits that on 19.12.2016 the challan has already been filed by the Police Authorities.

It is submitted that except offence under Sections 332 and 353 of IPC other offences are bailable. By placing reliance on Section 437 of Cr.P.C, it is submitted that necessary ingredients for refusing the bail are not available in the present case. Considering the aforesaid, it is prayed that no justification in keeping the applicants in jail is made out.

The prayer for grant of bail is opposed by learned Penal Lawyer. However, on specific query made by the Bench, learned Penal Lawyer fairly submits that challan has already been filed on 19.12.2016.

It is seen that the court below on 09.12.2016 has rejected the application for enlarging the applicants on bail on the ground that the investigation is still going on. Admittedly, the investigation is over and challan has already been filed.

In the aforesaid factual backdrop no useful purpose would be served in keeping the applicants in custody. The trial will consume sufficient amount of time and, therefore, I deem it proper to enlarge the applicants on bail.

Accordingly, it is directed that the applicants 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 of the like amount by each of the applicants to the satisfaction of the concerned trial court.

This order will remain in operation subject to

compliance of the following conditions by the applicants :-

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

The M.Cr.C. is disposed off.

C c as per rules.

**(SUJOY PAUL)**

**V JUDGE**

bks