

HIGH COURT OF MADHYA PRADESH

BENCH AT INDORE

M.Cr.C No.33553/2018

(Kailash Vs. State of MP)

Indore: 31.08.2018

Shri M.A. Bohra, learned counsel for the petitioner.

Shri Rakesh Maheshwari, learned Public Prosecutor for the respondent/State.

Heard with the aid of case diary.

ORDER

As per statement made by the accused/petitioner, this is the first bail application under Section 439 of Cr.P.C. Before High Court in connection with Crime No.227/2018 under Section 147, 148, 149, 353 and 307 of the IPC and Section 25/27 of the Arms Act registered at Police Station-Rajgarh, District-Rajgarh.

2. According to the prosecution case, on the date of incident, when the police was in search of some miscreants in the cattle theft case and they found the petitioner on the spot with some cattle, they tried to arrest him but the petitioner along with his companion opened fire on the police party and taking shelter of that firing and advantage of darkness, he avoided his arrest and fled away from the spot.

3. It is submitted by the learned counsel for the petitioner that the petitioner is innocent and has falsely been implicated in the present case. There is no evidence against him. Conclude of trial is likely to take time. The petitioner is permanent resident of district-**Rajgarh**. There is no possibility of his absconding. He is ready to furnish adequate security.

4. It is further submitted that the at the alleged time of the incident, he was near the bank of the river. After seeing some people coming towards him, he ran away from the spot. The police falsely implicated him in the present case. The petitioner was taken into custody by the police officers on 15.05.2017 and his memorandum statement was recorded but

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nothing was recovered from his possession. Thereafter, the police falsely recovered a 12 bore country made pistol from his possession.

5. The Prosecution has opposed the bail application stating that when the police party went in search of cattle theft case and found some persons near the river bank with some cattle they chased them, then those persons fired on the police party. Empty cartridges were recovered from the spot. The petitioner is named in the FIR. The police has recovered a fire arm from his possession. He was taken into custody on 15.05.2018 but he misguided the police on that day, therefore, nothing was recovered from his possession but on the next day, one fire arm was recovered from his possession. The petitioner has criminal record. Three other criminal cases bearing crime no. 351/2016 under section 363, 366 and 376 of the IPC, crime no.83/2018 under section 4, 6 and 9 of MP Govansh Vadh Pratishedh Adhiniyam and 5/11 of Prevention of Cruelty to Animal Act, crime no.100/2018 under Section 457 and 380 of the IPC is registered against the petitioner, therefore, he is not entitled for bail.

6. In reply, learned counsel for the petitioner submitted that the petitioner is acquitted in crime no.351/2016 and out of two other cases, one case is of simple theft and another is registered under Prevention of Cruelty to Animal Act for illegal transportation of cow progeny.

7. In view of the nature of the incident, allegations made against the petitioner and other facts and circumstances of the case, no case for grant of bail as prayed for is made out.

8. Accordingly, the present petition stands dismissed.

(Virender Singh)
Judge

sourabh