

The High Court Of Madhya Pradesh**MCRC-41261-2019***(KAMINI JHARIYA Vs THE STATE OF MADHYA PRADESH)***Jabalpur, Dated : 30-11-2019**

Mr. Shivnandan Saraf, learned counsel for the applicant.

Ms. Nidhi Verma, Govt. Advocate for Respondent-State.

Case diary is available.

This is the first application under Section 438 Cr.P.C. for anticipatory bail. The applicant apprehends her arrest in connection with Crime No.451/2019 registered at Police Station-Chourai, District-Chhindwara (M.P.) for the offence under Section 8/20 of NDPS Act.

Learned counsel for the applicant submits that the applicant is innocent and he has been falsely implicated. It is further submitted that the applicant has no criminal past, applicant has been made an accused only on the basis of memorandum of the co-accused. It is stated that nothing has been seized from the possession of the present applicant, the contraband has been seized from the co-accused. The applicant is ready to co-operate with investigation and shall abide by all the conditions which may be imposed by this Court; hence, prays for anticipatory bail.

Learned counsel for the respondent/State opposes the bail application and prays for it's rejection. Learned counsel for the State fairly conceded the fact that there is no criminal antecedent against the present applicant as per the case diary.

Heard rival contentions of the parties and perused the entire material available on record including the case diary. From a perusal of the record, it is seen that no contraband article has been seized from the possession of the present applicant. 1kg, 550 grms of contraband (Ganja) has been seized from the co-accused and the applicant has been made an accused in this case only on the basis of memorandum of co-accused person. No seizure is effected from the possession of the present applicant and the applicant has no criminal record prior to the present case. Charge-sheet has been filed against the co-

accused person.

Looking to the entire facts and circumstances of the case, this Court is of the considered view that it is fit case, in which, discretion of granting anticipatory bail may be exercised by this Court. Accordingly, this application is allowed without commenting anything on the merits of the matter. It is directed that in the event of arrest or surrender of **applicant - Kamini Jhariya** before the Arresting Authority/Investigating Officer in relation to the aforementioned crime number within a period of 15 days from today, she shall be released on bail on furnishing a personal bond in the sum of **Rs.1,00,000/- (Rupees One Lac Only)** with a solvent surety in like amount to satisfaction of Arresting/Investigating Officer on following conditions:

(1) The applicant will comply with all the terms and conditions of the bond executed by her;

(2) The applicant will cooperate in the investigation/trial, as the case may be;

(3) The applicant will not indulge herself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Police Officer, as the case may be;

(4) The applicant shall not commit any offence during the entire period of bail;

(5) The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be;

(6) The applicant shall inform the Investigating Officer/trial Court about her address and residence in case she moves out from her permanent address for any point of time;

(7) The applicant shall not contact any of the other accused persons in this case in any manner whatsoever; and

(8) Such other condition as may be imposed under sub-section (3) of section 437, as if the bail were granted under that section.

Certified copy as per rules.

(AKHIL KUMAR SRIVASTAVA)
JUDGE

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