

The High Court Of Madhya Pradesh**MCRC-21293-2020***(TIRUPATI MEDHA Vs THE STATE OF MADHYA PRADESH)***Indore, Dated : 23-10-2020**

Shri Devendra Singh, learned counsel for the applicant.

Shri Chetan Jain, learned Panel Lawyer for the respondent/State.

Heard through video conferencing.

This is the first bail application under Section 439 of the Criminal Procedure Code, 1973 filed on behalf of the applicant. The applicant is in jail since 29.12.2019 in connection with Crime No.552/2019 registered at P.S Khudel District Indore, for offence punishable under Sections 25(1)(a) of Arms Act.

As per prosecution story, the applicant alongwith co-accused Krishna Ahirwar were apprehended at Devgurariya Sanawadiya Phata on receipt of secret information that they were in possession of illegal arms (*Desi Katta*) in bags intended to sell the same at the bus stand to third person. On search, applicant was arrested and in front of panch witnesses, three 12 bore Desi Kattas were recovered from the present him without any license. Accordingly, case has been registered against the present applicant.

Learned counsel for the applicant contends that the applicant is innocent and he has been falsely implicated. Investigation is complete and the challan has been filed. No further custodial investigation is required. The applicant who has no criminal antecedents is in custody since 29.12.2019. Applicant is the sole bread earner and due to his jail incarceration, the family is in penury. Moreso, the co-accused Krishna Ahirwar has already been enlarged on bail by 4th ADJ, Indore by order dated 03.06.2020 passed in Bail Application No. 2127/2020. Looking to prevailing Covid-19 situation, trial is not likely to conclude early in the near future. Under such circumstances the prayer for grant of bail may be considered on such terms and conditions as this Court deems fit and proper.

Learned Panel Lawyer for the respondent opposes the bail application

supporting the order impugned. However, he submits that in compliance of the Court order dated 22.10.2020, report regarding criminal antecedents of the applicant and his social and financial status has been received, perusal of which indicates that applicant has no criminal antecedents and has a humble family background. He also does not dispute the fact of enlargement of co-accused Krishna Ahirwar on bail as mentioned above.

Upon hearing counsel for the parties but without touching merits of the contentions so advanced, regard being had to the fact that the applicant who has no criminal antecedents is in jail since 29.12.2019, investigation is complete and chargesheet has been filed, he is not required for custodial interrogation and the possibility of delay in conclusion of trial cannot be ruled, so also on the ground of parity, applicant is held entitled for enlargement on bail.

Consequently, the application of the applicant filed under Section 439 of the Criminal Procedure Code, 1973 is hereby allowed. It is directed that the applicant be released on bail on furnishing personal bond in the sum of Rs. 25,000/- (Rupees twenty five thousand only) with one solvent surety in the like amount to the satisfaction of the learned Trial Court and on the condition that he shall remain present before the Court concerned during trial and also

comply with the conditions enumerated under Section 437 (3) of Criminal Procedure Code, 1973 with following further conditions:

(i) the applicant shall mark his attendance before the concerned police station on 2nd and 4th Saturday every month between 10:00 a.m. to 12:00 noon.

(ii) the applicant shall abide by the terms and conditions of various circulars and orders issued by the Government of India and the State Government as well as the local administration from time-to-time in the matter of maintaining social distancing, physical distancing, hygiene, etc., to avoid proliferation of Novel Corona virus (COVID-19);

(iii) the concerned jail authorities are directed that before releasing the applicant, the medical examination of the applicant be conducted through the jail doctor and if it is prima facie found that he is having any symptoms of COVID-19, then the consequential follow up action or any further test required, be undertaken immediately. If not, the applicant shall be released on bail in terms of the conditions imposed in this order;

(iv) violation of conditions, State is free to apply for cancellation of bail.

Learned Panel Lawyer is directed to send an e-copy of this order to all the concerned including the concerned Station House Officer of the Police Station for information and necessary action.

Registry is directed to send an e-copy of this order to the Court concerned for necessary compliance.

E-certified copy as per rules.

(ROHIT ARYA)
JUDGE

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