

The High Court Of Madhya Pradesh

MCRC-30987-2020

(ROHIT BANJARA @ ROHIT NAYAK Vs STATE OF MADHYAPRADESH)

Jabalpur, Dated : 30-09-2020

Heard through Video Conferencing.

Shri Manish Datt, learned Senior counsel alongwith Shri Siddharth Datt, learned counsel for the applicant.

Shri Gopal Jaiswal, learned Panel Lawyer for the respondent/State.

This is first bail application filed by the applicants under Section 439 of the Code of Criminal Procedure.

The applicant is in custody since 17/07/2020 in connection with Crime No.344/2020 registered at P.S.-Gohparu, District-Shahdol (M.P.) for the offence punishable under Sections 399, 402 and 307 of the IPC alongwith Sections 25 and 27 of the Arms Act.

As per prosecution story, on 17/07/2020, Probationary Deputy Superintendent of Police, Police-Station-Gohparu received a secret information that 7-8 accused persons in two four wheelers are standing behind bushes near Nowgaon Sand Mines for and they were making plan to commit dacoity at Sand Mines, where the amount of royalty used to be deposited and the money was also collected there. Thereafter, police officials were collected and two teams were constituted to caught the said persons. They reached on the spot and caught red handed the present applicant alongwith other co-accused persons, while they were making plan to commit dacoity on the said mines. Co-accused-Girdhari fired from the *Katta* on police officials. During investigation, one iron tommy and Scorpio car were seized from the possession of the applicant.

Learned Senior counsel for the applicant submits that the applicant/accused has falsely been implicated in this case. Other co-accused persons are employees of Vanshika Group and the salary was not paid to them by Vanshika group since last two months. At the time of alleged incident, the applicant/accused alongwith other co-accused persons have gone to Vanshika Group to settle their dispute. While they were demanding their salary, some dispute arose between the applicant and other co-accused persons with the members of the Vanshika Group, due to which the applicant/accused has falsely been implicated in the present crime. No incriminating article was seized from the possession of the applicant. The applicant/accused is not having any criminal antecedents. Applicant's father lodged the complaint to Superintendent of Police regarding the false implication of the applicant/accused in the present offence. Some news items were published in the news paper in this regard. The applicant/accused is in

jail since 17/07/2020. No custodial interrogation of the applicant is required in the present case. At this time, due to outbreak of pandemic "COVID-19", the proceedings of the trial Court is withheld. Conclusion of trial will take considerable time. There is no chance of applicant absconding and tampering with the evidence, if he be released on bail. The applicant is ready to furnish bail, as per the order, abiding with all conditions imposed by the Court. On these grounds, learned counsel for the applicant prays for grant of bail to the applicant.

Per-contra, learned Panel Lawyer opposes the bail application and prayed for its rejection.

After hearing arguments of the parties and looking to the facts that the applicant/accused and other co-accused persons are employees of Vanshika Group, there was some dispute between them regarding the salary, applicant's father lodged the complaint to Superintendent of Police regarding the false implication of the applicant/accused, the applicant is in jail since 17/07/2020, charge-sheet has been filed, there is no probability of his absconding or tampering with the prosecution evidence, the trial will take long time for final disposal due to outbreak of pandemic COVID-19, it would be appropriate to release the applicant on bail, therefore, without commenting on merits of the case, application of the petitioner under Section 439 of the Cr.P.C. seems to be acceptable. Consequently, it is hereby **allowed**.

It is directed that applicant-**Rohit Banjara @ Rohit Nayak** be released on bail subject to furnishing a personal bail bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand Only)** with one solvent surety of the like amount to the satisfaction of the learned JMFC concerned or trial Court for his appearance before the trial Court on the dates given by the concerned Court. It is directed that the applicant shall comply with the provisions of Section 437(3) of the Cr.P.C. In view of the outbreak of 'Corona Virus disease (COVID-19)' the applicant shall also comply the rules and norms of social distancing.

Further, in view of the order passed by the *Hon'ble Supreme Court in suo motto W.P.No.1/2020*, it would be appropriate to issue the following direction to the jail authority :-

1. *The Jail Authority shall ensure the medical examination of the petitioner by the jail doctor before his release.*
2. *The petitioner shall not be released if he is suffering from 'Corona Virus disease'. For this purpose appropriate tests will be carried out.*
3. *If it is found that the petitioner is suffering from 'Corona Virus disease', necessary steps will be taken by the concerned authority by placing him in appropriate quarantine facility.*

With the aforesaid directions, the M.Cr.C. stands disposed of.

Certified copy as per rules.

(RAJENDRA KUMAR SRIVASTAVA)
JUDGE

skt

