

**THE HIGH COURT OF MADHYA PRADESH,**  
**BENCH AT GWALIOR**

**MCRC-13537-2021**  
***(Mangal Jatav Vs. State of M.P.)***  
(1)

**Gwalior, Dated : 31/03/2021**

Smt. Uma Kushwaha, Advocate for the applicant.

Shri Neeraj Dhamaniya, Panel Lawyer for the respondent/State.

Shri Ayush Chourasiya, Advocate for the complainant.

I.A. No. 9425/2021, an application for taking documents on record and I.A. No. 10435/2021, an application under section 301(2) of the Cr.P.C. are allowed.

Case-diary is perused.

Learned counsel for the rival parties are heard.

The applicant has filed this repeat application u/S 439 of Cr.P.C. for grant of bail. The first one was dismissed on merits vide order dated 2/11/2020 passed in M.Cr.C. No. 37422/2020.

The applicant has been arrested by Police Station Goraghat, District Datia in connection with Crime No.80/19 registered in relation to the offences punishable under Sections 302, 147, 148 and 149 of the IPC.

Allegations against the applicant, in short, are that the present applicant alongwith other co-accused persons armed with weapons like sword and axe inflicted injuries on the brother of the complainant and on the account of injuries sustained, brother of the complainant died on the spot. On the aforesaid basis, crime has been registered against the applicant.

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Learned counsel for the applicant submits that the applicant has been falsely implicated in the case. He is in custody since 15.06.2019. The applicant has not committed the alleged offence. He is innocent and not involved directly or indirectly in commission of said offence. Even in view of averments of FIR, no alleged offence is made out against the applicant. Learned counsel further submits that investigation stands completed by filing of the charge sheet. No further custodial interrogation is required. The complainant and other material witnesses have turned hostile and did not support the prosecution version. Owing to COVID-19 outbreak, trial is not likely to conclude in near future and detention of applicant in already congested prisons may be detrimental. The applicant can not be kept in jail for indefinite period. He is a permanent resident of Village Sitapur, P.S.Goraghat, District Datia and there is no possibility of his absconsion or tampering with the prosecution evidence. He is ready to abide by the terms and conditions as may be imposed by this Court. With the aforesaid submissions, prayer for grant of bail is made.

Learned counsel appearing for the respondent/State assisted by learned counsel for the complainant opposed the application and prayed for its rejection by contending that on the basis of the allegations and the material available on record, no case for grant of bail is made out. It is also submitted that the deceased has received

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several ante mortem injuries and he died on the spot. According to post mortem report all the injuries are serious in nature and cause of death is due to these injuries.

However, it would not be desirable to enter into the merits of the rival contentions at this juncture.

Having heard learned counsel for the parties, taking into consideration the material change in the circumstances of the case coupled with the fact that trial is not likely to conclude in near future and prolonged pre-trial detention being an anathema to the concept of liberty, this Court is inclined to extend the benefit of bail to the applicant.

Accordingly, without expressing any opinion on merits of the case, this application is **allowed** and it is directed that the applicant be released on bail on furnishing a personal bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand Only)** with two solvent and local sureties each in the like amount to the satisfaction of the trial Court for his appearance on the dates given by the concerned Court. The applicant shall also furnish a written undertaking before the concerned Court that he will abide by all the terms and conditions of various circulars, as well as, orders issued by the Central Government, State Government and local administration from time to time such as maintaining social distancing, physical distancing, hygiene etc. to

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avoid proliferation of Corona virus.

This order will remain operative subject to compliance of the following conditions by the applicant:-

1. The applicant will comply with all the terms and conditions of the bond executed by him;
2. The applicant will cooperate in the investigation/trial, as the case may be;
3. The applicant will not indulge in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicant will not seek unnecessary adjournments during the trial;
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 not commit any offence during pendency of the trial, failing which this bail order shall stand cancelled automatically without further reference to the Bench.**

Certified copy as per rules.

**(S.A. Dharmadhikari)**  
**Judge**

(and)

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