

The High Court Of Madhya Pradesh**MCRC-37331-2021***(GARIB DAS @ GARIBA BALMIK (JAMADAR) Vs THE STATE OF MADHYA PRADESH)***Gwalior, Dated : 31/07/2021****Heard through Video Conferencing.**

Shri Nitin Agarwal, learned counsel for the applicant.

Shri Sangam Jain, learned Public Prosecutor for the respondent/State.

I.A.No.22198/2021, an application for urgent hearing, is taken up, considered and allowed for the reasons mentioned therein.

This is **third** bail application under section 439 of CrPC filed by the applicant for grant of bail.

The applicant has been arrested on 18/11/2019 in connection with Crime No.148/2019 registered at Police Station Civil Line, District Datia for offence under Sections 302, 201, 34 of I.P.C.

It is submitted by learned counsel for applicant- **Garib Das @ Gariba Balmik (Jamadar)** that the applicant has not committed any offence. He has falsely been implicated in the case. He is in custody since 18/11/2019. The case is of circumstantial evidence and the last seen witness has already been

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examined as Kalyan Singh (PW-1) and he has not supported the prosecution case. Prosecution witnesses-Kalyan Singh (PW-1), Shiv Singh (PW-2), Komal Singh (PW-3), Rajendra Singh (PW-4) and Sunil (PW-5) have been examined before the trial Court and they have not supported the prosecution case and they have turned hostile, therefore, no case is made out against the present applicant. Hence, prayed for grant of bail to the applicant. He further undertakes to abide by all the terms and conditions of guidance, circulars and directions issued by Central Government, State Government as well as Local Administration regarding measures in respect of COVID-19 Pandemic and maintain hygiene in the vicinity while keeping physical distancing.

Per contra, learned State counsel vehemently opposed the bail application and has submitted that the case is registered under Sections 302, 201, 34 of I.P.C. Hence, prayed to reject the bail application.

Heard learned counsel for the parties at length through VC and considered the arguments advanced by them and perused the case diary.

Considering the facts and circumstances of the case along-

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with the applicant is in custody since 18/11/2019, without commenting on the merits of this case, the application is allowed and it is hereby directed that the applicant shall be released on bail on his furnishing personal **bond of Rs.1,00,000/- (Rupees One Lakh only)** with one solvent surety to the satisfaction of the Court concerned for his regular appearance before the trial Court concerned on the dates fixed by it.

In view of COVID-19 pandemic, the jail authorities are directed that before releasing the applicant, his Corona Virus test shall be conducted and if it is found negative, then the concerned local administration shall make necessary arrangements for sending the applicant to his house, and if his test is found positive then the applicant shall be immediately sent to concerning hospital for his treatment as per medical norms. If the applicant is fit for release and if he is in a position to make his personal arrangements, then he shall be released only after taking due travel permission from local administration. After release, the applicant is further directed to strictly follow all the instructions which may be issued by the Central Govt./State Govt. or Local Administration for combating the Covid-19. If it is found that the

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applicant has violated any of the instructions (whether general or specific) issued by the Central Govt./State Govt. or Local Administration, then this order shall automatically lose its effect, and the Local Administration/Police Authorities shall immediately take him in custody and would send him to the same jail from where he was released.

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

1. The applicant/s will comply with all the terms and conditions of the bond executed by him/her;
2. The applicant/s will cooperate in the investigation/trial, as the case may be;
3. The applicant/s will not indulge himself/herself/themselves in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicant/s shall not commit an offence similar to the offence of which he/she is accused. In case of repetition of any offence, this bail order shall stand cancelled automatically;
5. The applicant/s will not move in the vicinity of complainant party and applicant/s will not seek unnecessary adjournments during the trial;
6. The applicant/s will not leave India without previous permission of the trial Court/Investigating

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Officer, as the case may be; and

7. The applicant/s will inform the SHO of concerned Police Station about his/her/their residential address in the said area and it would be the duty of the State Counsel to send **E-copy** of this order to SHO of concerned Police Station for information.

Application stands allowed and disposed of.

E- copy of this order be sent to the trial Court concerned for compliance, if possible for the office of this Court.

(Rajeev Kumar Shrivastava)
Judge

Monika

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SHARMA

Digitally signed by MONIKA SHARMA
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