

HIGH COURT OF MADHYA PRADESH,
BENCH AT GWALIOR
M.Cr.C. No. 41191/2021

(Kalu Ken Vs. The State of M.P.)
(1)

Gwalior, dated : 30/9/2021

Shri Asad Khan, Advocate for the applicant.

Shri Rohit Mishra, Additional Advocate General for the respondent/State.

I.A. No.24593/2021, an application for urgent hearing is allowed.

Heard, learned counsel for the parties.

Case diary perused.

This is first application under section 439 of the Cr.P.C. for grant of bail.

After being arrested in connection with Crime No.645/2021 registered at Police Station Dabra Shahar, District Gwalior for the offences punishable under Sections 25, 27 of the Arms Act, the applicant is in judicial custody.

Allegations against the applicant, in short, are that he was found in illegal possession of a 315 bore country made pistol.

Learned counsel for the applicant submits that applicant has falsely been implicated in the case. He is in custody since 28/07/2021. Investigation is on the verge of completion. He is the sole bread earner of his family and there is no one to look after them. Conclusion of trial is likely to take time and the applicant cannot be kept in custody for indefinite period. Besides, owing to COVID-19 outbreak, his detention in already congested prisons may be

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detrimental. He is a permanent resident of Village Gulihai, Tahsil Dabra, District Gwalior and there is no likelihood of his absconsion or tampering with the prosecution evidence. With the aforesaid submissions, prayer for grant of bail is made.

On the other hand, learned counsel for the State 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 informed that applicant has criminal antecedents of five cases to his discredit.

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, though on comparatively stringent conditions.

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. 1,00,000/- (Rupees One Lac only)** with two solvent and local sureties of **Rs.50,000/- (Rupees fifty thousand)** each to the satisfaction of the trial Court/committal Court for his appearance on

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the dates given by the concerned Court. The applicant shall also furnish a written undertaking that he will abide by 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 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 mark his presence before the Station House Officer of the concerned Police Station once in every month during pendency of the investigation/trial.**
7. **If the applicant commits any offence while on bail, this order shall automatically stand cancelled without reference to the Court.**

Certified copy as per rules.

(S.A.Dharmadhikari)
Judge

(and)