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THE HIGH COURT OF MADHYA PRADESH
MCRC No.53589/2021
Jairam Prajapati vs. State of M.P.

Gwalior, Dated : 29.10.2021

Shri Rajesh Goswami, Counsel for the applicant.

Shri B.M. Shrivastava, Public Prosecutor for the respondent/State.

Case diary is available.

This second application under Section 439 of Cr.P.C. has been filed for grant of bail. The first application was dismissed by order dated 22.9.2021 passed in M.Cr.C.No.46845/2021.

The applicant has been arrested on 5.9.2021 in connection with Crime No.307/2021 registered at Police Station Khaniyadhana, District Shivpuri for offence under Sections 379, 414 of IPC and under Section 4(A), 21(1) of Mines and Minerals (Development and Regulation) Act.

It is submitted by the counsel for the applicant that according to the prosecution case, the applicant is the driver of the dumper and was illegally transporting the illegally excavated stone dust. The charge sheet has been filed and one of the co-accused/owner of dumper is still absconding.

Per contra, the application is vehemently opposed by the counsel for the respondent/State.

Heard the learned counsel for the parties.

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The Supreme Court in the case of **Virupakshappa Gouda & Anr. vs. State of Karnataka** reported in **(2017) 5 SCC 406** has held that mere filing of the charge sheet cannot be said to be a change in circumstance. The illegal mining is adversely effecting the ecological balance of the area and the Supreme Court in the case of **Jayant vs. State of M.P.** reported in **(2021) 2 SCC 670** has taken note of that fact. Furthermore, on certain occasions the persons involved in illegal mining had also attacked the police as well as forest officials. Thus it appears that in spite of serious efforts, the State is unable to check the illegal mining.

Be that whatever it may.

Since the illegal mining is causing serious threat to the ecological balance of the area, no case is made out for grant of bail. The application fails and is hereby **dismissed**.

(alok)

(G.S. Ahluwalia)
Judge

ALOK KUMAR
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