

The High Court Of Madhya Pradesh**MCRC-42688-2021***(JAI KUMAR NALWAYA Vs THE STATE OF MADHYA PRADESH)***Jabalpur, Dated : 31-08-2021****Heard through Video Conferencing.**

Shri Krishna Kumar Gautam, learned counsel for the applicant.

Shri Santosh Yadav, learned PL for the respondent/State.

This is first bail application under Section 438 Cr.P.C. has been preferred by the applicant for grant of anticipatory bail.

Applicant is apprehending his arrest in connection with Crime No.509/2021 registered at Police Station-Kotwali, District-Hoshangabad, for the offences punishable under Sections 384, 389, 465, 468, 471 and 120-B of IPC.

As per prosecution case, on the basis of inquiry report received from the office of Superintendent Police of Hoshangabad, a case has been registered by the Police Station- Kotwali, District-Hoshangabad mentioning therein that the applicant and other co-accused persons including Sunita @ Anita are involved in trapping of innocent persons in false allegations of misdemeanor by preparing forged applications in the name of Sunita @ Anita. They are also involved in extortion. The applicant is posted as Sub-Inspector.

Learned counsel for the applicant submits that the applicant is working as Sub-Inspector. He did not commit any offence as alleged by the prosecution. He submits that the FIR was lodged by the prosecution on the basis of inquiry report prepared by the DSP, District-Hoshangabad by which the applicant got terminated but in W.P. No.14129/2021 vide order dated 04.08.2021.2021, the order of termination has already been stayed by this High Court. Therefore, the entire criminal proceedings becomes vitiated. The witnesses did not specify the role of present applicant in the alleged crime. There is also delay in lodging the FIR. On the complaint of Sunita Thakur, the inquiry was conducted by the Superintendent of Police but Sunita Thakur herself is a co-accused of the case. Further, in the said inquiry report, witness

Dinesh Keer and Shravan Keer have stated against the present applicant but their statements have not been recorded in the investigation of present crime number. Except the statement of Sunita, no other plausible material is available on record against the present applicant. No seizure is to be made from the applicant. Applicant is a Government employee and if he is arrested, his career would be ruined. There is no probability of his absconding or tampering the evidence of prosecution witness. Therefore, learned counsel for the applicant prays for grant of anticipatory bail to the applicant.

On the other hand, learned P.L. for the respondent/State opposes the said bail application submitting that applicant has actively participated in the alleged crime and interrogation of the applicant is required.

Heard and perused the case diary.

On perusal of case diary, *prima facie*, it appears that on the complaint of co-accused Sunita Thakur, the DSP (Women Cell) District-Hoshangabad conducted an inquiry and found proved certain allegations against the applicant and three other co-accused persons. The applicant's counsel has drawn attention of this Court towards the annexures A/3 i.e. order passed by Single Bench of this Court in W.P. No.14129/2021 whereby the learned Court has stayed the termination of applicant which arose from the aforesaid inquiry report. Herein, it is pertinent to mention that it is well settled principle of law that the departmental proceedings does not affect the criminal prosecution. However, in my opinion, same may be considered as an additional ground to consider the bail application.

The material annexed with the case diary, particularly the statements of witnesses, namely, Jitendra, Vijay Singh, Mahesh Prasad and Vinod Kumar, *prima facie*, do not specify any overtact of the applicant in the alleged crime. The statements of Dinesh Keer and Shravan Keer have not been recorded in the case.

Considering the aforesaid facts and circumstances of the case, but without expressing any opinion on merits of the case, this Court is of the view

that it would be appropriate to enlarge the applicant on anticipatory bail. Consequently, the application under Section 438 of Cr.P.C. is hereby **allowed.**

It is directed that **applicant-Jai Kumar Nalwaya** will surrender himself before Investigating Officer within ten days' from the date of receipt of certified copy of this order and then in the event of arrest, he be released on bail on his furnishing bail bond in the sum of **Rs.50,000/-(Rupees Fifty Thousand Only)** with one solvent surety in the like amount to the satisfaction of the Arresting Authority.

The applicant shall make himself available for interrogation by a police officer as and when required. He shall further abide by the other conditions enumerated in sub-section (2) of Section 438 of Cr.P.C.

Certified copy as per rules.

(RAJENDRA KUMAR SRIVASTAVA)
JUDGE

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