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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA
ON THE 30th OF AUGUST, 2022**

MISC. CRIMINAL CASE No. 41434 of 2022

Between:-

**VISHAL @ PISSU S/O BAHADUR MALVIYA,
AGED ABOUT 19 YEARS, OCCUPATION: LABOUR
GRAM MALI BADODIYA GANDHINAGAR KE
PASS INDORE (MADHYA PRADESH)**

.....PETITIONER

**(SHRI NEELESH AGRAWAL, LEARNED COUNSEL FOR THE
APPLICANT).**

AND

**THE STATE OF MADHYA PRADESH STATION
HOUSE OFFICER THROUGH POLICE STATION
AAZAD NAGAR INDORE (MADHYA PRADESH)**

.....RESPONDENTS

**(SHRI VISHAL SANOTHIYA APPEARING ON BEHALF OF
ADVOCATE GENERAL)**

.....
*This application coming on for orders this day, the court passed the
following:*

ORDER

This is fourth application under Section 439 of the Cr.P.C. filed on behalf of the applicant in connection with Crime No.240/2020 registered at Police Station - Azad Nagar, Indore (M.P.) under Sections 302, 294, 506 of the IPC.

Earlier bail application was rejected on merits.

The present application is filed on the ground that the evidence of eye-witnesses have been recorded and they have not deposed anything against the applicant. The statement of Prashant who has reported the Dehati Nalishi has

stated that the accused Kanha inflicted knife injuries to Shiva but has not made any allegation against the applicant. The other eye-witnesses have also turned hostile and they have not supported the prosecution case. The applicant is in jail since 25.05.2020 and the trial is likely to take time.

Learned counsel for the respondent/state has opposed the prayer on the ground that the applicant had also actively participated in the commission of the offence. Though the eye-witnesses have turned hostile but in their statement recorded under section 161 of the Cr.P.C they have made allegation against the applicant.

After hearing learned counsel for the parties and taking into consideration the statement of the eye-witnesses especially evidence of Prashant where he has not made allegation against the applicant and deposed that the accused Kanha inflicted knife injuries to Shiva. The applicant is in jail since 28.05.2022 and the trial is likely to take time, I am of the view that the applicant is entitled for grant of bail. Therefore, without expressing any view on the merits of the case, the application is allowed.

It is directed that applicant shall be released from custody upon furnishing a personal bond of **Rs.50,000/- (Rupees Fifty Thousand Only)** with one surety of the like amount to the satisfaction of the Ld. Court below.

The prison authorities are also requested to ensure compliance with the order passed by the Supreme Court IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS in SUO MOTU "W.P. (C) No.1/2020" and ensure that the applicant is examined by the jail doctor before his release. If the applicant shows symptoms of COVID-19, the doctor shall forthwith direct him to be produced before the appropriate hospital designated for the detection and treatment of COVID-19 patients. If the doctor is of the opinion that the

applicant is not affected with the virus, the jail authorities shall ensure his transportation from the jail till his place of residence.

A typed copy of this order is being forwarded to the Office of the Advocate General, on their email address, for intimation to the Police Station concerned. The office is requested to forward a copy of this order to the Ld. Court below.

(VIJAY KUMAR SHUKLA)
JUDGE

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