

# The High Court Of Madhya Pradesh

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

ON THE 31<sup>st</sup> OF JANUARY, 2022

**MISC. CRIMINAL CASE No. 56825 of 2021**

**Between:-**

1- SANTOSH S/O BHERU BHURIYA,  
AGED ABOUT 32 YEARS,  
OCCUPATION: LABOUR VILLAGE CHENPURA,  
DISTT. RATLAM (MADHYA PRADESH)

2- DINESH S/O BHERU BHURIYA ,  
AGED ABOUT 26 YEARS,  
OCCUPATION: LABOUR VILLAGE CHENPURA,  
DIST RATLAM (MADHYA PRADESH)

.....APPLICANTS

(BY SHRI ASHISH GUPTA, ADVOCATE)

AND

THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER  
THRU. PS. RAOTI DISTT. RATLAM (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI PALASH CHOUDHARY, PANEL LAWYER)

(Heard through Video Conferencing)

*This appeal/application coming on for admission this day, the Court  
passed the following:*

## **ORDER**

### **Heard through Video Conferencing.**

**01.** This is the first bail application under Section 439 of Criminal Procedure Code, 1973. The applicants are implicated in connection with Crime No.363/2019 registered at Police Station Raoti, District- Ratlam (MP) for offence punishable under Sections 147, 148, 149, 294, 323, 506 & 302 of the Indian Penal Code. The applicants are in custody since 28.10.2019.

**02.** At the outset, learned counsel for the applicants prays for withdrawal of this application in so far as relates to applicant No.1 Santosh

with liberty to renew the prayer after recording of statement of material witnesses before the trial Court.

Prayer is allowed and the application on behalf of **applicant No.1 Santosh** is dismissed as withdrawn with the liberty as prayed for.

**03.** As per the prosecution, when deceased Kana Bhuriya, Prabhu Bhuriya, Sitaram and Satayanarayan and Mangu were sitting in the courtyard of their house, maternal grand mother of Mohan i.e. Nanibai passed by. One of accused Prabhu teased her by calling her an old lady. The incident gave rise to an altercation between the parties. The accused persons including Bheru, Dinesh, Narayan and Kishan came of the spot and took strong exception to the axe. They are armed with *lathis*. They heard filth abuses and started inflicting injuries to the complainant party. Santosh, Dinesh and Narayan hit the deceased Kana on his head and due to the injuries caused on his head Kana died. The present applicant is said to have caused injuries on the head of the deceased with a lathi. In the statements of the witnesses recorded under Section 164 of Code of Criminal Procedure, it has been stated that all of the accused persons had assaulted the deceased. Accordingly case has been registered against the present applicant.

**04.** Counsel for the applicant contends that the applicant is innocent and has falsely been implicated. The statements of witnesses recorded under Sections 161 and 164 of Cr.P.C. are contrary to the allegation made in the FIR. While in the FIR it was stated that only three accused had caused injuries to the deceased, in the statements all of them have been stated to have caused those injuries. It is submitted that the allegations against the applicant are omnibus in nature. The entire family of the applicant is in jail and the applicant is in custody since 28.10.2019 and more than two years and three months have expired. Investigation has been completed and challan has been filed and the further custodial of the applicant is not required. Under such circumstances, prayer for grant of bail to the applicant has been made.

**05.** The aforesaid prayer has been opposed by counsel for the respondent/State submitting that in view of the specific allegations levelled against the applicant of him also having assaulted the deceased with a lathi and the other material collected by the prosecution against him, he does not

deserve to be enlarged on bail.

**06.** I have heard the learned counsel for the parties and have perused the case diary. The applicant is in custody since 28.10.2019 and two years and three months have expired since then. None of the prosecution witnesses have been examined before the trial Court till now. Investigation has been completed and challan has been filed and the possibility of the trial taking a long time for its conclusion cannot be ruled out. In my opinion, the applicant hence deserves to be enlarged on bail.

**07.** Accordingly, without commenting on the merits of the case, the application filed by the **applicant No.2 Dinesh** is allowed. The applicant is directed to be released on bail upon furnishing a personal bond in the sum of Rs.3,00,000/- (Rupees Three Lakhs Only) with one solvent surety of the like amount to the satisfaction of the trial Court for his regular appearance before the trial Court during trial with a condition that he shall remain present before the Court concerned during trial and shall also abide by the conditions enumerated under Section 437 (3) Criminal Procedure Code, 1973.

**08.** This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Certified copy as per rules.

**(PRANAY VERMA)**

**JUDGE**

jyoti

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