

1
**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE ANIL VERMA**

ON THE 31st OF JANUARY, 2024

MISC. CRIMINAL CASE No. 57126 of 2023

BETWEEN:-

1. **KESHRIYA S/O ALAM, AGED ABOUT 22 YEARS,
OCCUPATION: AGRICULTURE, R/O: VILLAGE
JHAI, TEH. KUKSHI, DIST. DHAR (MADHYA
PRADESH)**
2. **UDANSINGH @ UDNIYA S/O BANESINGH, AGED
ABOUT 41 YEARS, OCCUPATION:
AGRICULTURIST, R/O: VILLAGE JHAI, TEH.
KUKSHI, DIST. DHAR (MADHYA PRADESH)**

.....APPLICANTS

(MR. VIKAS RATHI - ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH STATION HOUSE
OFFICER P.S. TANDA, DIST. DHAR (MADHYA PRADESH)**

.....RESPONDENT

(MS. VARSHA SINGH THAKUR - GOVERNMENT ADVOCATE)

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

ORDER

Applicants have filed this first bail application under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicants for grant of regular bail relating to Crime No.239/2023 registered at P.S. Tanda, District Dhar (M.P.) for commission of offence punishable under Sections 302 and 34 of IPC. They are in jail since 06.09.2023.

2. As per the prosecution story, on 01.09.2023, when the complainant

alongwith his father / deceased Basu was returning to their village on a motorcycle, at about 7:30 PM, both of them fell down from motorcycle, due to a pothole on the road in front of the shop of co-accused Alamsingh. When they objected 'why you have dug a pothole on the road', then applicant No.1 Keshariya alongwith co-accused attacked them by stone, due to which complainant sustained certain injuries. Applicant No.2 Udaniya also pelted stone, due to which Vijay sustained injury on his head. Thereafter, other co-accused Sursingh took out a bow and arrow from inside the house and hit on the chest of the deceased by arrow, due to which he died after sometime. Accordingly, a case has been registered against the applicants and other co-accused persons.

3. Learned counsel for the applicants submits that applicants are innocent persons and they have been falsely implicated in this matter. Applicants are in jail since 06.09.2023. They are not the main accused, who have murdered the deceased. Co-accused Golu has been enlarged on bail by this Court *vide* order dated 11.12.2023 passed in MCRC No.51586/2023 in the similar circumstances. No incriminating article has been recovered from the possession of present applicants. No proper identification was done regarding the involvement of both the applicants in the instant case. They are not having any criminal past. Investigation is over and charge-sheet has been filed. They are the permanent resident of district Dhar. Final conclusion of trial will take considerable long time. Under the above circumstances, prayer for grant of bail may be considered on such terms and conditions, as this Court deems fit and proper.

4 . Per-contra, learned counsel for respondent/State opposes the bail application and prays for its rejection by submitting that complainant in his

statement recorded under Section 164 of Cr.P.C. mentioned the name and role of the present applicants. Hence, both the applicants do not deserve for bail.

5. Perused the case diary as well as the impugned order of the court below.

6. Considering all the facts and circumstances of the case, arguments advanced by counsel for the parties, nature and gravity of allegation as also taking note of the fact that complainant has lodged an FIR against the four persons; nothing has been mentioned that applicants have caused any injury to the deceased or complainant; limited role has been attributed by the present applicants; no incriminating article or weapon has been recovered from the possession of the applicants; investigation is over and charge-sheet has been filed; applicants are not having criminal past and final conclusion of trial will take considerable long time. In these circumstances, I deem it proper to release the applicants on bail. Therefore, without commenting on the merits of the case, the application is allowed.

7. It is directed that the applicants be released on bail upon their furnishing a personal bond in the sum of **Rs.75,000/- (Rupees Seventy Five Thousand only) each** with one solvent surety each in the like amount to the satisfaction of the trial Court for their appearance before the trial Court, as and when required. They shall abide by the conditions enumerated u/S. 437(3) Cr.P.C.

Certified copy as per rules.

(ANIL VERMA)
JUDGE

Anushree

