

(2022) 12 MP CK 0064

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.53548, 52903, 55348, 57853 Of 2022

Abhishek Arkhel And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 08-12-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 380, 457

Arms Act, 1959 — Section 25

Citation : (2022) 12 MP CK 0064

Hon'ble Judges : Dinesh Kumar Paliwal, J

Bench : Single Bench

Advocate : Sanjeev Kumar Singh, Vinod Tiwari, Gyan Prakash Tripath, Mohd Anwar Hussai, Prahlad Choudhary

Final Decision : Allowed

Judgement

Dinesh Kumar Paliwal, J

These first bail applications under Section 439 of the Code of Criminal Procedure have been filed on behalf of the applicants for grant of bail, pending the trial.

The applicants-Abhishek Arkhel, Vishal Bawaria, Vikram @ Monu are in custody since 03.10.2002 and applicant-Santosh Kumar Satnami is in custody since 02.10.2022 in connection with Crime No.244/2022, registered at P.S.-Cantt., District-Jabalpur (M.P.) for the offence punishable under Sections 380 and 457 of IPC and 25 of the Arms Act.

All the aforesaid applications have arisen from the same crime number and police station, therefore, they are being disposed of by a common order.

As per prosecution case, on 02.10.2022, Sajal Das, Regional Manager Cantt. Store Department Ministry of Defence submitted an application in writing before SHO Police Station Cantt. Jabalpur alleging that on 26.09.2022 Jagdish Chouhan Incharge Officer No.06 SK3 had given a memo informing that Index no.86066

Nescafe of Bhandar No.6 are missing. On 23.09.2022, 139 cartoons were kept after counting the same. When he again counted the cartoons 50 cartoons were found missing. 30 more cartoons which were kept at another place were also found missing. On 26.09.2022 when Shri Vijay Kumar Naidu opened the canteen store, he found the net of the window cut and broken. In search, four big plastic gunny bags were found outside the boundary wall and some empty gunny bags and cartoons inside the boundary wall. Someone has stolen the aforesaid articles. On the basis of complaint in writing FIR was registered at Crime No.244/2022 for commission of offence under Sections 380 of IPC. In course of interrogation, on the basis of disclosure memo given by applicants/accused, four small sacks and three big white sacks in total seven gunny bags of Nescafe classic, two cartoons of Iodex in total 11 sacks worth Rs.4,00,000/- (four lakhs) were seized from the possession of the applicants and other co-accused persons. After investigation, charge sheet has been filed.

Learned counsel for the applicants have submitted that the applicants have not committed any offence. They are innocent. They have been falsely implicated. No cartoons or sacks containing Nescafe coffee and Iodex were seized from their possession. After investigation, charge sheet has been filed. The applicants have no criminal background. Therefore, it has been prayed that the applicants may be released on bail.

On the other hand, learned Panel Lawyer for the respondent/State has opposed grant of bail to the applicants but has fairly admitted that applicants have no criminal background.

After investigation, charge sheet has been filed. Offences are triable by JMFC. The applicants have no criminal background. Trial of the case will take considerable time. Therefore, without expressing any opinion on the merits of the case but having taken into consideration all the facts and circumstances of the case, I am of the view that it is a case in which further pretrial detention of the applicants/accused is not warranted.

Consequently, these first bail applications under Section 439 of the Code of Criminal Procedure for grant of bail filed on behalf of applicants stand allowed.

It is directed that applicants-Abhishek Arkhel, Vishal Bawaria, Santosh Kumar Satnami and Vikram @ Monu be released on bail on their furnishing a personal bond in the sum of Rs.50,000/- (Rupees Fifty thousand only) each with one solvent surety each in the like amount to the satisfaction of the trial Court, for their regular appearance before the concerned Court on all such dates as may be fixed in this behalf by the trial Court during the pendency of trial.

This order will remain operative subject to compliance of the following conditions by the applicants:-

1. The applicants will comply with all the terms and conditions of the bond executed by them;

2. The applicants will cooperate in the trial;
3. The applicants will not indulge himself in extending inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade them from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicants shall not commit an offence similar to the offence of which they are accused;
5. The applicants will not seek unnecessary adjournments during the trial; This order shall remain effective till the end of the trial. However, in case of bail jump and breach of any of the conditions of bail, it shall become ineffective.

Certified copy as per rules.