

(2022) 05 MP CK 0022

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.21881 Of 2022

Aman Vishwakarma And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 04-05-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 41A, 438

Indian Penal Code, 1860 — Section 34, 294, 323, 452, 506

Citation : (2022) 05 MP CK 0022

Hon'ble Judges : Vivek Agarwal, J

Bench : Single Bench

Advocate : Bhupendra Kumar Shukla, Pramod Saxena

Final Decision : Disposed Of

Judgement

Vivek Agarwal, J

This is first bail application filed by the applicant no.1 to 6 under Section 438 of Cr.P.C for grant of anticipatory bail, who are apprehending their arrest in connection with Crime No.174/2022 registered at Police Station-Moti Nagar, District Sagar(MP) for offences punishable under Sections 452, 294, 323, 506, 34 of IPC.

Allegation on the present applicants is that they had entered into house of the complainant and had beaten mother of complainant namely Smt. Yashodha Bai who complaint of swelling on the wrist.

Learned counsel for the applicant submits that the applicants are innocent. Admittedly there is an old civil dispute pending between father of the complainant namely Gajendra Singh and father of one of the accused/Raja @ Narendra Vishwakarma and on account of that enmity present applicants have been falsely implicated.

Shri Pramod Saxena, learned G.A for the respondent/State submits that in the

MLC report swelling is mentioned beside some bleeding in the right wrist but no X-ray report is available in the case diary. However admits that injuries are simple in nature.

Learned counsel for the applicant submits that whole story of the prosecution is improbable. This present applicants entering house of the complainant, beating his mother and causing only a blind injury on the right wrist. There is only some swelling reflects hollowness of the prosecution case. Trial court has failed to appreciate evidence on record. Till now investigating officer notice under 41A of Cr.P.C has not been issued. Though trial court has admittedly noted that in case of the applicants, offence mentioned in the FIR, maximum sentence prescribed is of 7 years, applicants' case is covered by law laid down in case of Arnesh Kumar Vs. State of Bihar & Another (2014) 8 SCC 273.

Taking into consideration submissions of learned counsel for the parties and considering the fact that old civil litigation is pending between the parties, nature of injuries, which could be self sustained also and also the fact that Investigating Officer/S.H.O has not yet issued notice under section 41A Cr.P.C reflects that applicants are not required to be taken into custody.

This case can be disposed of in the light of law laid down in the judgment of Supreme Court in case of Satender Kumar Antil Vs. Central Bureau of Investigation and Others in Special Leave to Appeal (Criminal) No.5191/2021 decided on 7.10.2021 directed the applicant to appear before the trial Court upon filing of the charge-sheet and to move application for bail and the trial Court shall consider such application in terms of the direction issued by the Supreme Court in Satender Kumar Antil Vs. Central Bureau of Investigation (supra).

In the same terms, the present anticipatory application is disposed of directing the applicants to appear before the trial Court and move bail application which trial Court shall consider in the light of Satender Kumar Antil Vs. Central Bureau of Investigation and Others (supra).

In above terms, this anticipatory bail application is disposed of.