

(2015) 04 MP CK 0057
In the Madhya Pradesh High Court
Case No : M.Cr.C. 5579/2015

Ankit Sonkar

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 13-04-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 294, 323, 34, 354

Citation : (2015) 04 MP CK 0057

Hon'ble Judges : M.K. Mudgal, J.

Bench : Single Bench

Advocate : Heeralal Chakravarty and Sneh Mishra, for the Appellant; Pramod Chaurasia, PL, Advocates for the Respondent

Final Decision : Disposed off

Judgement

M.K. Mudgal, J.—This is fourth bail application filed by the applicants-accused under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail apprehending their arrest in connection with Crime No. 474/2014 registered at Police Station Kotwali, District Jabalpur for offence under Sections 354, 323, 294 read with 34 of the IPC.

2. Three bail applications filed by the applicants-accused under Section 438 of the Cr.P.C. bearing M.Cr.C. No. 20698/2014, M.Cr.C. No. 1145/2015 and M.Cr.C. No. 3468/2015 were dismissed by this Court vide orders dated 14.01.2015, 02.03.2015 and 24.03.2015, respectively for want of prosecution and merit of the case was not considered in the said orders.

3. Learned counsel for the applicants/accused submits that the victim/complainant Ku. Aman Sharma, in being an Advocate has falsely got registered this case against the applicants/accused as there is a civil dispute pending between the parties. The applicant No. 3 Manish Sharma purchased a plot vide registered sale deed dated 19.08.2011 Annexure A-5 from Jagmohan Patel, Anil Patel and Rajendra and the said sale deed was executed by the complainant/

victim Ku. Aman Sharma as Power of Attorney holder of the said vendors. The plot of Dr. Vachan Sharma, who is the sister of Ku. Aman Sharma is situated adjoining to the plot of the applicant No. 3. The registry of the said plot was also executed by Dr. Vachan Sharma's sister Ku. Aman Sharma Annexure A-6. A dispute arose between the parties in connection with a passage. Dr. Vachan Sharma wanted to sell the said passage which is used by the applicant No. 3. Thereafter, civil suit No. 61-A/11 and 88-A/10 have been filed by the parties in the civil court. An order dated 23.07.2013 was passed by the Court of 18th Additional District Judge, Jabalpur for maintaining status-quo in Civil Suit No. 61-A/11. Counsel further pleads that the applicants/accused made a complaint to the police authorities on 25.11.2014 Annexure A-9 against Dr. Vachan Sharma (sister of the complainant/victim) and others who quareled with the applicant No. 3 in connection with the plot of the applicant No. 3 but police did not take any action against Dr. Vachan Sharma and her companion because her sister Ku. Aman Sharma is an Advocate. Another complaint dated 06.12.2014 was also lodged with the police by the applicants/accused Annexure A-10 and A-13 but police did not take any action. On the contrary, on the basis of false and fabricated facts, complainant Ku. Aman Sharma submitted a typed report to the police station against the applicants/accused alleging that they molested her modesty and abused and assaulted her. The story made by the complainant is totally false and fabricated and is made only to create pressure on the applicants/accused to leave their plot. Counsel further pleads that the alleged offences are not punishable with imprisonment for more than seven years and there is no kind of recovery to be made from the applicants/accused. On the aforesaid grounds and presence of a few documents on record, learned counsel has prayed for grant of anticipatory bail.

4. Learned Panel Lawyer for the State and counsel for the objector vehemently opposing the submissions made on behalf of the applicants-accused have submitted that the defence story put forth by the applicants/accused is totally false and fabricated. The applicant No. 3 Manish Sharma has a criminal background. A few FIR's were lodged against him from time to time. Apart from this when the complainant Ku. Aman Sharma who is an Advocate went to his sister Dr. Vachan Sharma's plot the applicants/accused abused her and caught hold of her hand and applicant/accused No. 3 showing her penis, threatened her and assaulted her. The report was immediately lodged against the applicants/accused. The story put forth on behalf of the applicants/accused regarding the dispute of civil nature is also baseless. Considering the allegations made in the FIR, the application filed by the applicants/accused for anticipatory bail be rejected.

5. Heard the arguments of both the parties and perused the record.

6. Indisputably, the complainant/alleged victim Ku. Aman Sharma, an Advocate, being Power of Attorney holder executed a sale deed Annexure A-5 in favour of the applicant No. 3 Manish Sharma. It is also undisputed that one plot of Dr.

Vachan Sharma who is the real sister of Ku. Aman Sharma is situated adjoining to the plot of the applicants. On perusal of the certified copy of the documents pertaining to the civil suits, it is obvious that there is a dispute between the parties in connection with the passage to the plot. In this regard the applicant No. 3 submitted a report on 25.11.2014 Annexure A-9 at the police station Kotwali. Apart from this, another report was lodged by him on 06.12.2014 Annexure A-10 against the complainant Ku. Aman Sharma and her companion but the police did not take any action against them on the basis of the said report. The complainant submitted a typed report to the police station on 06.12.2014 alleging the facts which have already been stated earlier. The said circumstances indicate that there is a disputed between the parties regarding passage to the plot which was purchased by the applicant No. 3 from the complainant/victim Ku. Aman Sharma. When the alleged incident took place, several persons were present on the spot; moreover the alleged offences are not punishable with imprisonment for more than seven years. Apart from this there is no kind of recovery to be made from the applicants/accused in this case.

7. Considering the civil nature of the dispute, punishment of the offences, facts and circumstances of the case as discussed earlier and the judgment of Hon"ble Apex Court rendered in the case of Arnesh Kumar Vs. State of Bihar, , this Court deems it fit to grant anticipatory bail to the applicants. Hence, allowing this application, it is ordered that in the event of arrest by the arresting officer or by the court, the applicants Ankit Sonkar, Umesh Sonkar and Manish Sharma shall be released on bail on their furnishing personal bonds for the sum of Rs. 25,000/- each with separate sureties for the like amount to the satisfaction of the court. The applicants are directed to join the investigation immediately and fully cooperate with the investigating agency and the trial. The applicants shall abide by the other conditions enumerated in Sub-section (2) of Section 438 of Cr.P.C.

8. M.Cr.C. stands disposed of.

9. Certified copy as per rules.