
(2020) 10 MP CK 0140

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 23656 Of 2020

Bhakti Ahirwar

APPELLANT

Vs

State Of M.P

RESPONDENT

Date of Decision : 14-10-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 394, 397

Citation : (2020) 10 MP CK 0140

Hon'ble Judges : Vijay Kumar Shukla, J

Bench : Single Bench

Advocate : Anoop Kumar Saxena, Shivam Hazare

Final Decision : Disposed Of

Judgement

Vijay Kumar Shukla, J

On account of prevailing conditions worldwide brought about by the COVID-19 virus, the appeal has been heard through video conferencing in order to maintain social distancing. The necessary parties have effectively been represented by their respective counsel via video conferencing.

Heard and perused the record.

This is first application under Section 439 of the Cr.P.C. filed on behalf of the applicant in connection with Crime No.206/2020 registered at Police Station-Orchha Road District Chhatarpur (M.P.) under Sections 394 and 397 of IPC.

Learned counsel for the applicant submits that the applicant was arrested on 19.06.2020 whereas test identification parade was conducted after 74 days delay and therefore, the identification has lost its efficacy. Further, there is seizure of money and Adhar Card whereas, motor cycle was found in the field and mobile phone was also recovered from the spot. The prosecution is not able to explain the delay of 74 days in conducting test identification parade.

Taking into consideration the delay in conducting test identification parade, I am of the view that prima facie case is made out for grant of bail. Therefore, the application is allowed.

It is directed that Applicant-Bhakti Ahirwar shall be released from custody upon furnishing a personal bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one surety of the like amount to the satisfaction of the Ld. Court below.

The prison authorities are also requested to ensure compliance with the order passed by the Supreme Court in Writ Petition No. 1/2020 and ensure, that the Applicant is examined by the jail doctor before his release. If the Applicant show symptoms of COVID-19, the doctor shall forthwith direct him to be produced before the appropriate hospital designated for the detection and treatment of COVID-19 patients. If the doctor is of the opinion that the Applicant is not affected with the virus, the jail authorities shall ensure his transportation from the jail till his place of residence.

With the above the application is finally disposed of.

It is further made clear that if it is found that the applicant is involved in any other case during the trial, this bail order shall stand cancelled automatically without reference to the Court and the Police will be at liberty to arrest the applicant.

A typed copy of this order is being forwarded to the Office of the Advocate General and Shri Shivam Hazare, learned Panel Lawyer, on their email address, for intimation to the Police Station concerned.

The office is requested to forward a copy of this order to the Ld.

Court below.

Certified copy as per rules.