

(2019) 11 MP CK 0136

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 39614, 37930 Of 2019

Bhupendra Singh And Ors

APPELLANT

Vs

State Of Madhya Pradesh And Ors

RESPONDENT

Date of Decision : 18-11-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 34, 409

Citation : (2019) 11 MP CK 0136

Hon'ble Judges : S.A. Dharmadhikari, J

Bench : Single Bench

Advocate : M.P.S. Raghuvanshi, Uma Kushwah, Vijay Kumar Jha, R.K. Mishra

Final Decision : Allowed

Judgement

Learned counsel for the rival parties are heard.

This is first application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail filed by the applicant.

The applicant apprehends his arrest in connection with Crime No.148/2019 registered at Police Station- Chinore, District- Gwalior for the offence punishable under Sections 409/34 of IPC.

Allegations against the applicant are that during procurement Session 2019-2020, the applicant was working as computer operator at Krishi Upaj Mandi, Chinore and after procurement, it was found that 33 farmers have not been paid their dues amounting Rs.22,64,120/-and the said amount has been transferred to some other farmers. On the basis of aforesaid, offence has been registered against the applicant.

Learned counsel for the applicant submits that the applicant has been falsely implicated in the matter and he is not concerned with the case directly or indirectly. It is also submitted by the learned counsel for the applicant that the

applicant is not a government servant as he has never been appointed at the said Krishi Upaj Mandi. He has no power to transfer the amount to anybody's account. Ingredients of Section 409 of IPC that property ought to have been entrusted in any manner in the capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property shall be punished, are not attracted. The applicant is a permanent resident of District-Gwalior. There is no likelihood of his absconsion, if he is granted the benefit of anticipatory bail. He is ready to abide by all the terms and conditions as may be imposed by this Court. With the aforesaid submissions, prayer for anticipatory bail is made.

Learned Public Prosecutor for the State opposed the application and prayed for its rejection by contending that on the basis of the allegations and the material available on record, no case for grant of anticipatory bail is made out. It is also submitted by the learned counsel for the respondent/State that investigation is pending and custodial interrogation may be required in the matter.

Taking into consideration the facts and circumstances of the case, but without expressing any opinion on merits of the case, I deem it appropriate to extend the benefit of anticipatory bail to the applicant.

It is hereby directed that in the event of arrest of applicant namely- Bhupendra Singh, he shall be released on bail on furnishing a personal bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety of the like amount to the satisfaction of Arresting Authority.

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

1. The applicant will comply with all the terms and conditions of the bond executed by him;
2. The applicant will cooperate in the investigation/trial, as the case may be;
3. The applicant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicant shall not commit an offence similar to the offence of which he is accused;
5. The applicant will not seek unnecessary adjournments during the trial; and
6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

Certified copy as per rules.