

(2022) 09 MP CK 0010

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 42488 Of 2022

Bhura @ Pramod Yadav

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 05-09-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 147, 148, 149, 294, 307, 323, 395, 427, 435, 452

Madhya Pradesh Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam, 1981 — Section 11, 13

Citation : (2022) 09 MP CK 0010

Hon'ble Judges : Gurpal Singh Ahluwalia, J

Bench : Single Bench

Advocate : Nitin Agarwal, C.P. Singh

Final Decision : Allowed

Judgement

Gurpal Singh Ahluwalia, J

This second application under Section 439 of Cr.P.C. has been filed for grant of bail. The first application was dismissed by order dated 17.6.2022 passed in M.Cr.C.No.26193/2022.

The applicant has been arrested on 16.4.2022 in connection with Crime No.310/2022 registered at Police Station Civil Lines, District Morena for offence under Sections 395, 307, 452, 323, 294, 147, 148, 149, 435, 427 of IPC and under Section 11/13 of MPDVPK Act.

This repeat application has been filed on the ground of period of detention. It is submitted that the first bail application was dismissed on merits by order dated 17.6.2022 passed in M.Cr.C.No.26193/2022 but he is in jail for the last more than four months. The investigation is complete and charge sheet has been filed. It appears that a mob had ransacked the vehicles as well as newly constructed house of the complainant. However, there is no allegation that any serious injury

was caused to any victim. The allegation of causing injury on the head of Musharraf Ali is against the applicant by handle of a gun. However, no fracture of skull bone was found. There is no allegation of firing gunshot by the applicant whereas it is alleged that Rahul and Sonu Sikarwar had fired gunshots. The trial is likely to take sufficiently long time and there is no possibility of his absconding or tampering with the prosecution case. It is further submitted that this Court by order dated 25.8.2022 passed in M.Cr.C.No.39530/2022 has granted bail to co-accused Ram Akhtyar on certain conditions and the applicant is willing to get released on the same terms and conditions.

Per contra, the application is vehemently opposed by the counsel for the State. It is submitted that a mob of 15-20 persons including the applicant had assaulted the complainant as well as Musharraf Ali and house of the complainant was ransacked and the vehicles parked therein were either damaged or were burnt. The applicant has a criminal history of three more cases registered in Police Station Civil Lines, Morena. From Nuksani Panchanama, it is clear that total loss of Rs.25,00,000/- has been caused to the vehicles apart from the damage to the newly constructed house.

Considering the allegations made against the applicant as well as period of detention, this Court is of the view that he can be granted bail on stringent condition as the applicant also has a criminal history of three cases. Accordingly, without prejudice to his defence, if the applicant deposits an amount of Rs.5,00,000/- and furnishes a cash surety of Rs.1,00,000/- (Rupees One Lac Only) to the satisfaction of the Trial Court/Committal Court to appear before the Court on the dates given by the concerned Court, the applicant shall be released on bail.

This order shall remain effective till the end of trial but in case of bail jump, it shall become ineffective.

Needless to mention that the amount deposited by the applicant shall be kept in the FDR of Nationalized Bank renewable from time to time till the conclusion of the trial and if the applicant is convicted, then the said amount of Rs.5,00,000/- along with accrued interest shall be payable to the complainant otherwise in case of acquittal, entire amount shall be refunded back to the applicant. Deposit of an amount of Rs.5,00,000/- shall be the condition precedent for release of the applicant on bail.

It is made clear that single default in appearance before the Trial Court, or in case of registration of new offence, this bail order shall automatically come to an end and the cash surety so furnished by the applicant shall automatically stand forfeited without any reference to the Court.

In the light of the judgment passed by the Supreme Court in the case of Aparna Bhat and others Vs. State of M.P. Passed on 18.03.2021 in Criminal Appeal No. 329/2021, the intimation regarding grant of bail be sent to the complainant.

The application is allowed.