

(2021) 05 MP CK 0053

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.22023 Of 2021

Bhure Kha @ Rafique Kha Khan

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 11-05-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 437(3), 439
Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 8, 20
Indian Penal Code, 1860 — Section 307

Citation : (2021) 05 MP CK 0053

Hon'ble Judges : Subodh Abhyankar, J

Bench : Single Bench

Advocate : Vikas Rathi, Sudhanshu Vyas

Final Decision : Allowed

Judgement

Subodh Abhyankar, J

This is the second application filed by the applicant under Section 439 Cr.P.C. for grant of bail during the trial. His earlier bail application

M.Cr.C.No.33538/2019 was dismissed as withdrawn by this Court vide order dated 19.08.2019.

The applicant is facing trial for offence punishable under Sections 8/20 of the N.D.P.S. Act, registered at Police Station-Narcotic Cell, District-Indore

in Crime No.03/2019. The applicant is in jail since 20.1.2019.

Allegation against the applicant is that in all 42 kg ganja has been seized from the joint possession of the applicant and the co-accused Kalim Khan.

Counsel for the applicant has submitted that although the contraband is more than the commercial quantity of 20 kg. however, the applicant is in jail

since 20.1.2019 and till now only two prosecution witnesses have been examined

in court, out of 10 prosecution witnesses. It is further submitted that there are no other case under NDPS Act has been registered against the applicant and the final conclusion of trial is likely to take sufficiently long time on account of Covid-19 pandemic. Hence, counsel prays for grant of bail to the applicant.

Learned Panel Lawyer for the respondent/State, on the other hand, has opposed the prayer. However, it is submitted that except the last offence

under Section 307 of the IPC registered in the year 2017 and the other two cases are minor in nature. However, it is not denied that there are no other

case under NDPS Act registered against the applicant.

Having considered the rival submissions, on perusal of the case diary, taking note of the fact that the applicant is in jails since 20.1.2019 and the final

conclusion of the trial is likely to take sufficiently long time in the wake of fresh spread of COVID-19, this Court finds it expedient to allow the present

bail application. Accordingly, the present application for grant of bail is hereby allowed.

Therefore, the applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs.1,00,000/- (Rupees One Lakh only) with

one solvent surety in the like amount to the satisfaction of the Trial Court for his appearance before the trial Court on the dates so fixed by that Court

during trial. It is also directed that the applicant will abide by all the conditions enumerated under Section 437(3) of the Cr.P.C.

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

Certified copy, as per rules.