
(2020) 09 MP CK 0096

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 33323, 33356 Of 2020

Chandan Singh

APPELLANT

Vs

State Of M.P

RESPONDENT

Date of Decision : 11-09-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 34, 294, 307, 323, 324, 341, 506

Citation : (2020) 09 MP CK 0096

Hon'ble Judges : Vishal Mishra, J

Bench : Single Bench

Advocate : Anshu Gupta, Devendra Pathak

Final Decision : Dismissed

Judgement

In the wake of unprecedented and uncertain situation due to outbreak of the Novel Corona virus (COVID-19) and considering the advisories issued by the Government of India, these applications have been heard and decided through video conferencing to maintain social distancing. The parties are being represented by the respective counsel through video conferencing, following the norms of social distancing/ physical distancing in letter and spirit.

Heard the learned counsel for the parties.

The applicants have filed this first application u/S 439 Cr.P.C. for grant of bail. The applicants have been arrested by Police Station Sahrai, District Ashoknagar in connection with Crime No.85/2020 registered in relation to the offence punishable under Sections 341, 324, 323, 294, 506, 34 and section 307 of IPC.

It is submitted by counsel for the applicants that the applicants have been falsely implicated in the case and they have not committed any offence in any manner. It is submitted that the allegation against the present applicants are as per the prosecution story that they have inflicted injuries by means of an axe on the hand of the complainant/injured. It is submitted that all the injuries which are

shown in the MLC are mere swelling and abrasions. No sharp cutting injuries have been shown by the prosecution. It is submitted that the applicants are the first offenders and investigation is over in the matter and charge-sheet has been filed. There is no further requirement of custodial interrogation of the present applicant. He has further relied upon the judgment passed in the case of Thaman Kumar Vs. State of Union Territory of Chandigarh, (2003) 6 SCC 380 and argued that there should be a specific averment by the complainant regarding the inflicting of injury from the blunt side of an axe and in case such an assertion is not made then it is presumed that the injuries are inflicted by an axe are from the sharp side and in the present case there is no assertion in the entire prosecution story that the injuries are inflicted from the blunt side of the axe, therefore, it will be presumed that axe if used by the applicants are by the sharp cutting side and as per the MLC there is no injury of sharp cutting object. He has prayed for grant of bail looking to the present Corona Pandemic scenario and is ready to show his willingness to abide by all the terms and conditions and further shown his willingness to contribute Rs.10,000/- each towards the PM Care Fund.

Per contra, counsel for the State has opposed the bail application stating that there are specific allegations against the present applicants of inflicting injuries to one Maan Singh. It is submitted that Maan Singh has sustained fracture in lower rib of left side of chest as is clear from the x-ray report.

It is further submitted that there were six injuries inflicted to the injured Maan Singh. He has further read over the statement of one eye-witness Rajesh, who was categorically deposed regarding the incident and has clearly deposed that there were active participation of the present applicants in commission of offence. It is argued that mere filing of the charge-sheet does not absolve the applicants from the conduct. He has prayed for dismissal of the application.

Considering the overall facts and circumstances of the case and also the fact that there are six injuries to the injured and he has also sustained one fracture on the lower rib of the chest coupled with the fact that there are active participation of the present applicants in commission of offence and looking to the custody period of the applicants, this Court is not inclined to allow the applications at this stage.

Accordingly, the applications are rejected.

E-copy of this order be provided to the applicants and E-copy of this order be sent to the trial Court concerned for compliance. It is made clear that E-copy of this order shall be treated as certified copy for practical purposes in respect of this order.