
(2021) 07 MP CK 0056

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.33016 Of 2021

Chandu And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 07-07-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Electricity Act, 2003 — Section 136, 137
Indian Penal Code, 1860 — Section 411

Citation : (2021) 07 MP CK 0056

Hon'ble Judges : Rajendra Kumar Srivastava, J

Bench : Single Bench

Advocate : Amit Dubey, Kishore Roy

Final Decision : Allowed

Judgement

Rajendra Kumar Srivastava, J

This is first bail application filed by the applicants under Section 439 of the Code of Criminal Procedure.

The applicant are in custody since 26.12.2020, in connection with Crime No.575/2020, registered at Police Station Nimbola, District Burhanpur (M.P.)

for the offence punishable under Sections 136, 137 of Electricity Act and Section 411 of IPC.

As per prosecution story, on 2.11.2020, some persons broken transformer of electricity and stolen copper wire laid on the field of complainant-

Rajdhar. Thereafter, 2.5 kg copper wire was seized from the possession of applicant No. 1, 3 kg copper wire was seized from the possession of

applicant No. 2 and 3 Kg copper wire was seized from the possession of applicant No. 3.

Learned counsel for the applicants submits that applicants have been falsely implicated in this case. Accused/applicants are not previously convicted.

No wire was seized from the possession of present applicants. No eye witness is available on record.

Accused/applicants are in custody since 26.12.2020. Charge sheet has been filed. It is the time of COVID-19 Pandemic, so conclusion of trial will

take long time. Accused/applicants are bread earner of their family and if they are kept in custody for an unlimited period, then future of their family

will be spoiled. There is no probability of their absconding or tampering with the evidence of prosecution. The accused/ applicants are ready to furnish

bail as per the order, abiding with all conditions imposed by the Court. On these grounds, learned counsel for the applicants prays for grant of bail to

the applicant.

Per-contra, learned Panel Lawyer for the State submits that accused/applicants have previous criminal antecedent of the same nature, therefore,

applicants are not entitled for bail. He opposes the bail application.

After hearing arguments of the parties and the fact that accused/applicants are not previously convicted, the applicants are in jail since 26.12.2020,

charge sheet has been filed, the trial will take time for final disposal due to COVID-19, there is no probability of their absconding or tampering with the

prosecution evidence, the applicants are bread earner of their family, it would be appropriate to release the applicants on bail, therefore without

commenting on merits of the case, application of the applicants under Section 439 of the Cr.P.C. seems to be acceptable. Consequently, it is hereby

allowed.

It is directed that applicants- Chandu, Rajendra @ Dilip and Kailash be released on bail on their furnishing bail bond in the sum of Rs.1,00,000/-

(Rupees One Lakh) each with two solvent sureties of Rs.50,000/-(Rupees Fifty Thousand) each to the satisfaction of the JMFC concerned or trial

Court for their appearance before the trial Court on the dates given by the concerned Court. It is directed that the applicants shall comply with the

provisions of Section 437(3) of the Cr.P.C. In view of the outbreak of 'Corona Virus disease (COVID-19)' the applicants shall also comply the rules

and norms of social distancing.

Further, in view of the order passed by the Hon'ble Supreme Court in suo moto

W.P.No.1/2020, it would be appropriate to issue the following direction to the jail authority :-

1. The Jail Authority shall ensure the medical examination of the applicants by the jail doctor before their release.
2. The applicants shall not be released if they are suffering from 'Corona Virus disease'. For this purpose appropriate tests will be carried out.
3. If it is found that the applicants are suffering from 'Corona Virus disease', necessary steps will be taken by the concerned authority by placing them in appropriate quarantine facility.

Certified copy as per rules.