
(2023) 01 MP CK 0022

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.61901 Of 2022

Jagdish Singh Gurjar

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 04-01-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 34, 294, 307, 323

Citation : (2023) 01 MP CK 0022

Hon'ble Judges : Atul Sreedharan, J

Bench : Single Bench

Advocate : Sarang Gupta, BPS Chauhan, Madhukar Kulshrestha

Final Decision : Allowed

Judgement

Atul Sreedharan, J

This first application under Section 439 of the Code of Criminal Procedure, 1973 has been filed for grant of bail to applicant - Jagdish Singh Gurjar in connection with Crime No. 67/2022 for the offences punishable under Sections 307, 323, 294, 34 of IPC, registered at Police Station Nurabad, District Morena.

The applicant has been in judicial custody since 11/12/2022. The allegation against the applicant is being a member of group of three people who stated to have entered into an altercation with the complainant over a land dispute after which one of them fired a country made firearm at the complainant which struck him at the lower part of his foot. The highest offence is under Section 307 of IPC. The other two offences under Section 323 and 294 of IPC are bailable. The specific allegation pertaining to firing is attributable to co-accused Ramprakash. The allegation against the applicant herein are of having abused the complainant and assaulting him with fists blows and kicks. The MLC only reflects the firearm injury. It does not reflect any injuries in the nature of contusions and abrasions which are consonant with assault with kicks and fists blows.

Learned counsel for the Objector and the State while opposing the application for grant of bail have stated that the applicant was absconding for long and it was great efforts of trial Court which had issued a Non Bailable Warrant that the applicant has been arrested and thereafter sent to judicial custody. Learned counsel for the State has specifically submitted that the applicant and the others had arrived at the scene of occurrence with the intention of causing injury to the complainant. According to him, the main accused, who fired the gunshot, had come to the scene of occurrence armed with the country made firearm.

Learned counsel for the State has also submitted that the applicant herein has a criminal record. However, none of them pertains to offence under Section 307 of IPC.

Be that as it may, the allegation against the applicant herein are of assaulting and of abusing the complainant. There is no allegation of exhorting the main accused to fire the firearm or of abetting the act.

Looking to the period of incarceration undergone by the applicant herein and more importantly the nature of specific allegations against him a part of which prima facie is not supported by the MLC, the application is allowed. It is directed that the applicant herein shall be enlarged on bail upon his furnishing a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety in the like amount to the satisfaction of the learned trial court.

Certified copy as per rules.