
(2020) 02 MP CK 0162

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 6915 Of 2020

Kalu @ Chandrabhan And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 24-02-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 120(B), 392, 395, 398
Arms Act, 1959 — Section 25

Citation : (2020) 02 MP CK 0162

Hon'ble Judges : Virender Singh, J

Bench : Single Bench

Advocate : Gaurav S. Shrivastava, Sandeep Mehta

Final Decision : Allowed

Judgement

1. This is the second bail application under Section 439 of Cr.P.C. filed by petitionersâ Kalu @ Chandrabhan, Lalu and Feroz Khan @ Sonu in

Crime No.147/2019 registered at Police StationâBarod, DistrictâAgar Malwa under Sections 392, 395, 398 and 120-B of IPC and Section 25 of

Arms Act.

2. First application was dismissed as withdrawn vide order dated 15.10.2019 passed in M.Cr.C. No.41810 of 2019 and in other connected matters.

3. According to the prosecution case on 07.06.2019 at about 13:20 hour, after collecting cash complainant Dharmendra S/o Siddhulal was coming back

along with Shambhu Singh by motorcycle. He was carrying total Rs.2,39,450/-, collection sheet, finger print machine in a bag. When they were on the

way from Iklera to Barod, in forest area, the complainant noticed four miscreants, who had covered their faces by scarfs and having swords and

sticks in their hands. The miscreants stopped their motorcycle and assaulted them. They snatched bag from the complainant and fled away from the spot. The complainant lodged FIR on the same day.

4. During investigation, the police have recovered cash of Rs.22,000/- each from Kalu @ Chandrabhan, Lalu and Feroz Khan @ Sonu. Besides, Aadhar Card and a wallet from Feroz Khan @ Sonu, one collection sheet from Kalu @ Chandrabhan and wooden stick from Lalu have also been recovered.

5. Lalu is identified during test identification parade. While no test identification parade is conducted in respect of Feroz Khan @ Sonu and Kalu.

6. It is mentioned in the FIR itself that the miscreants were covered their faces by scarfs, therefore, the complainant could not identify them on the spot.

7. Learned Counsel drew my attention towards paras 13, 15, 19 and 20 of the complainant Dharmendra Chouhan, where he has admitted that he handed over his Aadhar Card to the Company and the Company had provided it to the police after the incident. In para 15 he has admitted that all the miscreants had covered their faces, therefore, he could not identify them at the time of incident. In para 19 he has admitted that collection sheet, which was handed over to him on 06.06.2019 that is the date of incident was got printed on 07.06.2019.

8. Learned Counsel for the petitioners further submits that co-accused persons, namely, Dinesh, Umrao, Mohsin Khan, Sufiyaan and Narsingh have been enlarged on bail by this Court vide orders dated 15.10.2019 and 07.02.2020 passed in M.Cr.C. Nos.41810, 41110, 41111 of 2019 and M.Cr.C. No.4081 of 2020.

9. Learned Public Prosecutor has objected for the same, but has not controverted the facts narrated by the learned Counsel for the petitioners.

10. On due consideration of the facts narrated by the learned Counsel for the petitioner and other facts and circumstances of the case, I deem it appropriate to allow the application, therefore, without commenting on merits of the case, the application is allowed.

11. It is directed that the petitioners Kalu @ Chandrabhan S/o Ratanlal, Lalu S/o Bhagga Ji and Feroz Khan @ Sonu S/o Shaukat Khan Pathan be released from custody on their furnishing a personal bond in the sum of

Rs.25,000/-(Rupees Twenty Five Thousand Only) each with separate sureties to the satisfaction of the Trial Court for their appearance before the Trial Court as and when required further subject to the following conditions :-

(i) The petitioners shall co-operate with the trial and shall not seek unnecessary adjournments on frivolous grounds to protract the trial.;

(ii) The petitioners shall not directly or indirectly allure or make any inducement, threat or promise to the prosecution witnesses, so as to dissuade him from disclosing truth before the Court;

(iii) The petitioners shall not commit any offence or involve in any criminal activity;

(iv) In case of their involvement in any other criminal activity or breach of any other aforesaid conditions, the bail granted in this case may also be cancelled.