
(2022) 01 MP CK 0059

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.1201 Of 2022

Meena Kushwah And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 11-01-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438, 438(2)
Indian Penal Code, 1860 — Section 34, 294, 323, 326, 506

Citation : (2022) 01 MP CK 0059

Hon'ble Judges : G.S. Ahluwalia, J

Bench : Single Bench

Advocate : Rishabh Pathak, C.P. Singh

Final Decision : Allowed

Judgement

G.S. Ahluwalia, J

This first application under Section 438 of CrPC has been filed for grant of anticipatory bail.

The applicants apprehend their arrest in connection with Crime No.378/2021 registered at Police Station "Hazira, District Gwalior for offence

punishable under Sections 323, 294, 506, 34 and 326 of IPC.

It is submitted by Counsel for the applicants that according to the prosecution case, the dispute arose on the question of dumping waste material. It is

alleged that applicants started abusing the complainant party and later on the co-accused Arun came on the spot and assaulted on the head of Sandeep

Singh by means of an iron hammer. There are no allegations of any overt act of making an assault against the applicant No.1-Smt. Meena Kushwah.

In view of the allegations that applicants No.2 & 3 assaulted Rajendra and Suman, Counsel for applicants submits that he may be permitted to

withdraw this application in respect of applicants No.2 & 3 but the bail application for grant of anticipatory bail filed on behalf of applicant No.1 may

be considered. It is further submitted that in fact a cross case has also been registered against the complainant party which has been registered as

crime No.376/2021, and thus, it is clear that every accused shall be liable for own individual act and as no allegation of any assault has been made

against applicant No.1 and only allegation against the applicant No.1 is that she too was abusing the complainant party, the application for grant of

anticipatory bail of applicant No.1 be considered sympathetically. She is willing and ready to co-operate in the investigation. The trial is likely to take

sufficiently long time. There is no possibility of her absconding or tampering with prosecution case.

Per Contra, the application is opposed by the State Counsel. However, after going through the Police Case diary, it is fairly conceded that except the

allegation of abusing the complainant party, there is no allegation of any overt act against the applicant No.1.

Considering the allegations made against the applicant No.1-Smt. Meena Kushwah, her application for grant of anticipatory bail is allowed subject to

condition that if the applicant No.1 appears before the Investigating Officer (Arresting Officer) on or before 18.01.2022, she shall be released on bail

on her furnishing a personal bond in the sum of Rs.1,00,000/- (Rupees One Lac Only) with one surety in the like amount to the satisfaction of the

Arresting Officer (Investigating Officer).

The applicant No.1 shall make herself available for interrogation by the Investigating Officer as and when required. She shall further abide by the

other conditions enumerated in sub-section (2) of Section 438 of Cr. P. C.

It is made clear that in case if the applicant No.1 fails to appear before the Investigating Officer (Arresting Authority) on or before 18.01.2022, then

this order shall lose its effect and the Investigating Officer shall be at liberty to take her in custody.

So far as the bail application filed on behalf of applicants No.2- Kanhaiya Kushwah & applicant No.3-Manish Kushwah is concerned, the same is

dismissed as withdrawn.

In the light of the judgment passed by the Supreme Court in the case of Aparna Bhat & Ors. vs. State of M.P. passed on 18/3/2021 in Criminal

Appeal No.329/2021, the intimation regarding grant of bail be sent to the complainant.

CC as per rules.