

(2021) 05 MP CK 0164

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.24337 Of 2021

Mustfha

APPELLANT

Vs

State Of M.P

RESPONDENT

Date of Decision : 18-05-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 437(3), 439

Indian Penal Code, 1860 — Section 34, 294, 304, 307, 323, 341, 365, 395, 427

Citation : (2021) 05 MP CK 0164

Hon'ble Judges : Vivek Rusia, J

Bench : Single Bench

Advocate : Akhilesh Kumar Saxena, Ram Shashtri

Final Decision : Allowed

Judgement

Vivek Rusia, J

This is first bail application under Section 439, Cr.P.C. for grant of bail in connection with Crime No.430/2020, Police-Station- Garoth, District-

Mandsaur for commission of the offence under Sections 341, 323, 294, 427, 365, 307, 395 and 34 of the IPC.

As per prosecution story Rahul s/o Rameshchand lodged an FIR at police station Garoth on 22.11.2020 at 04.59 hours disclosing that on 21.11.2020 in

day time when he was returning from Simrol along with Ritesh and Ghanshyam in his car near about 8.30 when they reached Melkheda then suddenly

a pick-up van came there and apprehended their car. From the pick-up Salim, Firoz, Raju & Ikram armed with stick came outside. Farooq, Mustafa,

Mangu (applicant) and Shahjad came towards the car and verbally assaulted by abusive language. Salim, Firoz and Ikram had broken the wind shield

of their car. Farooq and Shahjad threw chilly power inside the car due to which

vision of Ghanshyam and Ritesh became blur and thereafter they took them in the pick up van. He witnessed the entire incident from the side of the building. On the basis of the said report police registered an FIR against as many as 8 accused persons, recorded the statement of the witnesses and arrested the applicant and other accused.

Learned counsel for the applicant submits that as per the allegations this applicant along with Shahjad and Farooq threw the chilly powder inside the car. There is a recovery of chilly powder from Farooq. In the medical examination report of the injured no such chilly powder was found inside the eyes. There is no allegation of injury by this applicant. There is a previous enmity between the parties in respect of some land. From the allegations offence under section 307 of the IPC is not made out. So far the abduction is concerned it is also concocted because complainant was not found in the possession of this applicant.

Learned panel lawyer for the respondent/State opposes the bail application.

I have perused the entire case diary.

Considering the facts and circumstances, without commenting on the merits of the case, the application filed by the applicant is allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- (Rupees Fifty thousand) with one solvent surety of the like amount to the satisfaction of the trial Court for his regular appearance before the trial Court during trial with a condition that he shall remain present before the court concerned during trial and shall also abide by the conditions enumerated under Section 437(3) Cr.P.C.

This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Before releasing the applicant from the custody, the jail authorities are directed to medically examine him in order to rule out the possibility of COVID-

19 infections and shall comply with the direction given by the Hon'ble Apex Court in Writ Petition No.1/2020.

Certified copy as per rules.