

(2021) 08 MP CK 0075

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.38482 Of 2021

Nandlal Patel And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 11-08-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 437(3), 439
Indian Penal Code, 1860 — Section 34, 294, 307, 323, 506

Citation : (2021) 08 MP CK 0075

Hon'ble Judges : Rajeev Kumar Shrivastava, J

Bench : Single Bench

Advocate : Sharad Verma, Ashish Patel

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 applicants are in custody since 30.04.2021 in connection with Crime No.299/2021 registered at Police Station-Churhat, Distt.-Sidhi (M.P.) for the offence punishable under Sections 307, 294, 323 & 506 of IPC.

As per prosecution case on dated 29.04.2021, complainant Vinod Kumar Tripathi lodged FIR stating therein that on the date of incident i.e. on

28.04.2021, his nephew Rohit Dwivedi was assaulted by co-accused Rajnish Patel & applicant-accused Ajay Kumar Patel @ Pawan Patel and on

29.04.2021 at about 8.30 P.M., he was going alongwith his nephew Rohit Dwivedi to hospital on motorcycle at that time, in front of house of Mudrika

Patel, co-accused Rajnish Patel assaulted him with lathi on his head resultantly he alongwith his nephew Rohit Dwivedi fell down on the ground,

thereafter, present applicants-accused alongwith other co-accused person namely Indralal Patel, Gendlal Patel, Samarjeet Patel, Panda Patel and

Rajnish Patel came over there with lathi, fawda and abused them filthily with dire consequences and committed marpeet with them.

Learned counsel for the applicants-accused submits that the applicants have been falsely implicated in this case. They have no previous criminal

antecedents, so there is no probability to repeat the said offence by them. They are agriculturists and labourer. They did not inflict any injury to injured

Ram Niwas. Ram Niwas Patel received one injury on his head, which is dangerous to life. During investigation, a stick is seized from the possession

of the applicant-accused No.3-Pawan Patel and nothing has been seized from the possession of the applicants-accused No. 1 & 2. The main

allegation is against co-accused Rajnish Patel. A counter case has also been registered against the present applicants-accused bearing Crime No.

300/2021 for the offence punishable under Sections 294, 323, 506/34 of IPC in the Police Station-Churhat by the applicants-accused. They are in

custody since 13.07.2021. A Charge-sheet has been filed. It is the time of pandemic COVID-19 due to which trial will take time to conclude.

Applicants are agriculturists and labourer. They are single bread earners of their family. If they will be kept in jail for unlimited period, then future of

their family will be spoiled. They are ready to furnish adequate surety and shall abide by all the directions and conditions which may be imposed by the

Court. With the aforesaid, he prays to allow this bail application.

Per contra, learned Panel Lawyer for the respondent/State opposes the bail application.

Considering the contentions of both parties, looking to the circumstances of the case and the facts that applicants-accused have no previous criminal

antecedents, the main allegation is against the co-accused Rajnish Patel, stick has been seized from the possession of the present applicant-accused

No.3-Pawan Patel, nothing has been seized from the possession of the applicants-accused No.1 & 2, counter case has also been registered against

the present applicants-accused bearing Crime No. 300/2021 for the offence punishable under Sections 294, 323, 506/34 of IPC in the Police Station-

Churhat, they are in custody since 13.07.2021, charge-sheet has been filed, it is the time of pandemic COVID-19 due to which trial will take time to

conclude, so in view of this Court it is not appropriate to keep the applicants in jail during whole trial, therefore, without expressing any opinion on the

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

It is directed that applicants-Nandla Patel, Lallu Bhaiya Patel & Ajay Kumar Patel be released on bail on their furnishing a personal bail bond in the

sum of Rs.50,000/- (Rupees Fifty Thousand Only) each with two solvent sureties each of Rs.50,000/- in the like amount to the satisfaction of the

concerned trial Court for their appearance before it on the dates given by the concerned Court. It is further 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 with 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.