

(2020) 09 MP CK 0118

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 27285 Of 2020

Narendra Bahadur And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 14-09-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438

Indian Penal Code, 1860 — Section 34, 294, 353, 427, 506

Citation : (2020) 09 MP CK 0118

Hon'ble Judges : Subodh Abhyankar, J

Bench : Single Bench

Advocate : Anil Lala, Neeraj Ashar

Final Decision : Allowed

Judgement

This is the first application under Section 438 of Cr.P.C. on behalf of applicants, who are apprehending their arrest in connection with Crime No.195/2020 registered at Police Station Vijayraghavgarh, District Katni (M.P.) for the offence punishable under Sections 353, 427, 294, 506 & 34 of IPC.

The allegations against the applicants are that on the date of incident i.e. on 23.07.2020 they demolished the boundary wall of the community hall (Samudayik Bhawan) which was constructed by the Gram Panchayat Karitalai (M.P.).

Learned counsel for the applicants has submitted that an old dispute is going on between the applicants and Gram Panchayat and then this regard certain orders have been passed by the revenue authority as also by the Civil Court by passing a decree that the applicants are the owners of the land in dispute where the said community hall is allegedly being constructed.

Counsel has further submitted that after loosing the civil dispute between the parties the Sarpanch of the said Grma Panchayat with a view to falsely implicate the present applicants is constricting the said wall on the land which belongs to

the applicants and in the garb of the said construction the present FIR has been lodged alleging that the applicants have demolished the wall and interfered in the Government work.

Counsel has further submitted that the applicant No.1 is 80 years old Pujari of the temple in the village and the applicants No.2 & 3 are his sons, who are engaged in agriculture. It is further submitted that a civil dispute is being painted as a criminal offence and no purpose would be served to arrest the applicants in the present case mere otherwise they are ready and willing to for the applicants prays for grant of anticipatory bail to the applicants.

Learned Panel Lawyer for the respondent/State on the other hand has opposed the prayer and has submitted that no case for bail is made out as the applicants have interfered in the Government construction work as also demolished the Government property. It is further submitted that there is criminal antecedent against the applicant No.1 as in the year 2012 a case under Sections 294 & 506 of IPC was registered against him. Thus their application be dismissed.

Counsel for the applicants in response to the aforesaid objection regarding criminal antecedent of the applicant No.1, has submitted that the aforesaid offence registered against the applicant No.1 is in respect of the same property and was purely a civil dispute wherein he was falsely implicated.

Having considered the rival submissions of the parties, on perusal of the case diary and the documents filed by the applicants along with this application which include the judgment and decree as also the orders passed by the Tahsildar and SDO that no construction work be carried out in the land in dispute as also taking note of the age of the applicant No.1 to the fact that the applicants No.2 & 3 are his sons aged about 47 and 45 years respectively, this Court finds that the applicants have made out a case for anticipatory bail. Thus without commenting on the merits of the case, the application for grant of anticipatory bail is allowed.

Accordingly, it is directed that applicant No.1-Narendra Bahadur, applicant No.2-Vikram Bhadur Urmaliya and applicant No.3-Samar Bahadur Urmaliya in the event of their arrest shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) each with separate surety of the like amount to the satisfaction of the Arresting Officer. The applicants shall further abide by the following conditions:-

"(i) the applicants shall make themselves available for interrogation by a police officer as and when required;

(ii) the applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against them so as to dissuade them from disclosing such facts to the Court or to any police officer;

(iii) the applicants shall not leave India without the previous permission of the Court; and

(iv) the applicants shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected."

Certified copy as per rules.