
(2020) 11 MP CK 0091

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 46482 Of 2020

Nisar Mohammad S/o. Gafoor Mansoori

APPELLANT

Vs

State Of M.P

RESPONDENT

Date of Decision : 20-11-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 437(3), 439
Indian Penal Code, 1860 — Section 120B, 409, 420

Citation : (2020) 11 MP CK 0091

Hon'ble Judges : Vivek Rusia, J

Bench : Single Bench

Advocate : Maqbool Ahmed Mansoori, Manish Gupta

Final Decision : Allowed

Judgement

Vivek Rusia, J

1. This is first application filed under section 439 Cr.P.C. filed by the applicant seeking bail in connection with Crime No.150/2020 registered at police

station Malhargarh, District Mandsaur for the offence punishable under sections 420, 409 & 120-B of the IPC.

2. As per the prosecution case, the Bank Manager of Malhargarh Branch of Canara Bank made a written complaint to the Police alleging that from

2016 to 2018, 409 gold loans were sanctioned by the then Bank Manager and out of 409 cases, in 87 cases the gold loans were sanctioned by

mortgaging the fake gold ornaments. At the time of giving loan, the genuineness of the gold was got verified by Rajesh Soni, the local goldsmith and on

the basis of his report, loans were sanctioned. Later on, the Bank got verified the mortgaged gold and found that in all 87 loan cases the gold is fake,

hence the FIR be registered. On the basis of aforesaid complaint, the Police

registered the FIR against 49 accused including Rajesh Soni and the then Manager of Canara Bank.

3. Learned counsel for the applicant submits that the applicant has not committed any offence and he has been falsely implicated in the case. He never took loan from the complainant bank. In fact, Rajesh Soni, who is an official valuer of the Bank has obtained the signature of the present applicant on some blank papers and took a loan by mortgaging fake gold ornaments in the Bank. He has committed similar type of offence in as many as 87 loan cases. The applicant had no knowledge about the aforesaid loan. After arrest he came to know that some loan has been taken in his name by Rajesh Soni. He is in jail since 16.10.2020. The investigation is complete and charge-sheet has been filed. No further custodial interrogation of the applicant is required in the matter. There is no likelihood of early conclusion of the trial. He, therefore, prays for grant of bail to the applicant.

4. On the other hand, learned Panel Lawyer opposes the prayer for grant of bail by submitting that applicant did sign the loan papers and took the loan, now he cannot allege that Rajesh Soni took loan in her name. Still he is liable to repay the loan amount to the Bank, which is public money. If he is willing to deposit the loan amount to the Bank, the Court may consider her bail application.

I have perused the case-diary.

5. So far the defence taken by the counsel for the applicant is concerned, it is a matter of trial and there are as many as 87 cases against the co-accused Rajesh Soni of similar nature and the trial may take time to conclude. However, prima facie the loan was taken in the name of applicant, hence, he is liable to repay the same. If the applicant deposits the loan amount, he can be released on bail. Taking into consideration the above, without commenting on the merits of the case, the application is allowed and it is directed that subject to deposit of 50% of the loan amount before releasing the applicant on bail and the remaining 50% of the loan amount within one month after releasing him from jail the applicant is directed to be released on bail upon his furnishing personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only), with one solvent surety in the like amount to the satisfaction of trial Court for his appearance before the trial Court on all such dates as may be fixed in this behalf by the trial Court during the

pendency of trial and shall also abide by the conditions enumerated under Section 437 (3) of Cr.P.C.

6. 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 directions given by the Hon'ble Apex Court in Writ Petition No.1/2020.

C.C. as per rules.