

(2014) 11 MP CK 0141
In the Madhya Pradesh High Court
Case No : M. Cr. C. No. 17817/2014

Nitin Goel

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 20-11-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 34, 380, 420, 468

Citation : (2014) 11 MP CK 0141

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

Bench : Single Bench

Advocate : Ajay Mishra, Senior Advocate and Gaurav Tiwari, Advocate for the Appellant; D.K. Paroha, P.L and Deependra Singh, Advocate for the Respondent

Judgement

G.S. Solanki, J.—This is the first bail application filed by the applicants under Section 438 of the Cr.P.C. for grant of anticipatory bail.

2. The applicants apprehend their arrest in connection with Crime No.198/2014 registered at P.S. Vijay Nagar, District Jabalpur for the offences punishable under Sections 380, 34 of the IPC.

3. As per prosecution, it is alleged that these applicants are sons of complainant Shiv Shankar Goel, born out of the wedlock of his wedded wife. At present, complainant is living with another lady. It is further alleged that being sons, applicants came to his house and lived together with him and on 22.04.2013, they have committed the theft of documents pertaining to properties, bank cheque books, bonds of Sahara India and PAN card alongwith Rs.5,50,000/-.

4. Learned counsel for the applicants submits that applicants have been falsely implicated in this case. Applicants are sons of complainant and they are living at Meerut. It is further submitted that complainant had sold about 301 bonds each valuing Rs.5,000/- to his mother Muniya Devi, who is residing with the applicants at Meerut and at the time of maturity, complainant attempted to encash the

aforesaid bond. Muniya Devi, mother of complainant Shiv Shankar filed a civil suit before the Civil Judge Senior Division, Meerut, during Summer Vacation on 27.06.2014, wherein injunction order has been passed by the Civil Judge on 01.07.2014. After receiving the aforesaid information, complainant has lodged a false and concocted report against these applicants on 30.06.2014 regarding theft of documents pertaining to properties, bank cheques books, bonds of Sahara India, PAN card alongwith Rs.5,50,000/-. It is further submitted that if any theft was committed in April, 2013, then such report could have been lodged long before in the year 2013, but the complainant got the information in regard to order of injunction issued by the Civil Judge, Meerut, he lodged a false report against these applicants. He further submitted that nothing is required to be seized from the possession of these applicants. In these circumstances, it is prayed that the applicants be released on anticipatory bail.

5. Learned counsel for the State as well as the State submit that on 05.05.2013, complainant issued a notice in regard to the incident of 22.04.2013 and some relatives were trying to pacify the matter between the parties, therefore, he has not lodged any report against these applicants. It is further submitted that in the event of releasing the applicants on anticipatory bail, further investigation will be adversely effected, therefore, they pray for dismissal of this petition.

6. I have perused the case diary alongwith the documents (Annexure A-2 to A-15), filed alongwith this petition. Complainant and applicants are father and sons. There is prima facie material on record that complainant has sold the bonds to her mother Muniya Devi (grandmother of these applicants) and Muniya Devi has filed a civil suit against the complainant, then as a counter blast he has lodged a false and concocted report against the applicants. As far as the conduct and character of complainant is concerned, some criminal cases under Sections 420 and 468 of the I.P.C. have also been registered against him. It is also on record that about 5-6 accounts were opened in the name of these applicants and their mother by the complainant and said accounts were stopped by the applicants. Normally the conduct of the complainant is not considered at the time of grant or refusal of bail application, but considering the controversy between the parties and the fact that a civil suit is pending between them, it is relevant.

7. On due consideration of the contention raised by the learned counsel for the parties and overall facts and circumstances of the case, I am of the considered view that it is a fit case to release the applicants on anticipatory bail. Therefore, without commenting on the merits of the case, this application is allowed and it is directed that in the event of arrest, the applicants shall be released on bail on their furnishing a personal bond in a sum of Rs. 30,000/- (Rs. Thirty Thousand only) each with one surety in the like amount to the satisfaction of arresting officer.

8. The applicants are directed to join the investigation immediately and fully co-operate with the investigation. They shall further abide by the other conditions enumerated in sub- section (2) of Section 438 of Cr.P.C.

9. In view of the ratio laid down by Hon''ble Apex Court in Siddharam Satlingappa Mhetre Vs. State of Maharashtra and Others, , this order shall remain in force till the end of the trial.

10. Certified copy as per rules.