

(2021) 03 MP CK 0126

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 15259 Of 2021

Omprakash @ Omi Kushwah And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 19-03-2021

Acts Referred:

Indian Penal Code, 1860 — Section 392

Madhya Pradesh Dakaiti Aur Vyaparan Prabhavit Kshetra Adhiniyam, 1981 — Section 11, 13

Code Of Criminal Procedure, 1973 — Section <439/li>

Citation : (2021) 03 MP CK 0126

Hon'ble Judges : Rajeev Kumar Shrivastava, J

Bench : Single Bench

Advocate : B.S. Dhakad, Padamshri Agrawal

Final Decision : Allowed

Judgement

Rajeev Kumar Shrivastava, J

I. A. No.8588/2021, an application for urgent hearing is taken up, considered and allowed for the reasons mentioned therein.

The applicants have filed this first bail application u/S.439 Cr.P.C for grant of bail. Applicants have been arrested on 19/02/2021 by Police Station Kotwali, Distt. Shivpuri (M.P.) in connection with Crime No.80/2021 registered for offence under Section 392 of IPC and Sections 11, 13 of MPDVPK Act.

It is submitted by learned counsel for the applicants- Omprakash @ Omi Kushwah and Mohan @ Papu Kushwah that the applicants have not committed any offence. Applicants are in custody since 19/02/2021. They have falsely been implicated in this case by the Police on account of seizure of stolen property from below the bed of the complainant. It is further submitted that no case is made out against the applicants. Investigation and thereafter trial will take its own time. Applicants are ready to abide by any condition which may be imposed by

this Court. Hence, prays for grant of bail to the present applicants. They further undertake to abide by all the terms and conditions of guidance, circulars and directions issued by Central Government, State Government as well as Local Administration regarding measures in respect of COVID-19 Pandemic and maintain hygiene in the vicinity while keeping physical distancing.

Learned State counsel has vehemently opposed the application and has submitted that there is one criminal antecedent against the present applicant. Hence, prayed to reject this application filed for grant of bail to the applicants.

Heard learned counsel for the parties at length and considered the arguments advanced by them and perused the case diary.

Considering the facts and circumstances of the present case, without commenting upon the merits of the case, the application is allowed and it is hereby directed that the applicants -Omprakash @ Omi Kushwah and Mohan @ Papu Kushwah shall be released on bail on their furnishing personal bond of Rs.50,000/- (Rupees Fifty Thousand only) each with one solvent surety each in the like amount to the satisfaction of the Court concerned for their regular appearance before the trial Court concerned on the dates fixed by it.

In view of COVID-19 pandemic, the jail authorities are directed that before releasing the applicants, their Corona Virus test shall be conducted and if it is found negative, then the concerned local administration shall make necessary arrangements for sending the applicants to their house, and if their test is found positive then the applicants shall be immediately sent to concerning hospital for their treatment as per medical norms. If the applicants are fit for release and if they are in a position to make their personal arrangements, then they shall be released only after taking due travel permission from local administration. After release, the applicants are further directed to strictly follow all the instructions which may be issued by the Central Govt./State Govt. or Local Administration for combating the Covid19. If it is found that the applicants have violated any of the instructions (whether general or specific) issued by the Central Govt./State Govt. or Local Administration, then this order shall automatically lose its effect, and the Local Administration/Police Authorities shall immediately take them in custody and would send them to the same jail from where they were released.

This order will remain operative subject to compliance of the following conditions by the applicants :-

1. The applicants will comply with all the terms and conditions of the bond executed by them;
2. The applicants will cooperate in the investigation/trial, as the case may be;
3. The applicants will not indulge themselves in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to the Police Officer, as the case may be;

4. The applicants shall not commit any offence similar to the offence of which they are accused;
- 5 . The applicants will not move in the vicinity of complainant party and applicants will not seek unnecessary adjournments during the trial;
6. The applicants will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be;
7. The applicants will inform the SHO of concerned police station about their residential address in the said area and it would be the duty of the Public Prosecutor to send E-copy of this order to SHO of concerned police station for information.

Application stands allowed and disposed of.

E-copy of this order be sent to the trial Court concerned for compliance.

Certified copy/ e-copy as per rules/directions.