

(2021) 09 MP CK 0133

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.47030 Of 2021

Pooran Banjara And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 28-09-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 34, 294, 307, 323, 324, 325, 506

Citation : (2021) 09 MP CK 0133

Hon'ble Judges : Rajeev Kumar Shrivastava, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

Rajeev Kumar Shrivastava, J

Learned counsel for the applicant seeks for and is granted permission to withdraw this bail application in respect of applicant No.1 Pooran Banjara.

This bail application is dismissed as withdrawn so far as it relates to applicant No. 1 Pooran Banjara.

This is first bail application under Section 439 of CrPC for grant of bail to applicants Banti Banjara and Mohar Singh.

The applicants have been arrested on 28/8/2021 in connection with Crime No.72/2021 registered at Police Station Panihar, District Gwalior for offence under Sections 324, 323, 294, 506, 34, 307 and 325 of IPC.

It is submitted by learned counsel for applicants Banti Banjara and Mohar Singh that the applicants have been falsely implicated. They have not committed any offence. They are in custody since last more than one month. Earlier, case was registered under Sections 324, 506, 294 and 323 of IPC but later on, Sections 325 and 307 of IPC have been enhanced to make the offence graver. Case of the present applicants are on same footing as with co-accused Khaggu and Suresh

who have been granted bail by this Court. The present applicants are not the main accused and they have not caused any injury to the victim with an intention to cause death. The allegation levelled against the present applicants is of causing injury by means of lathi only. Hence, prayed for grant of bail to the applicants on the ground of parity.

Per contra, learned State counsel as well as learned counsel for the complainant opposed the bail application and have submitted that other co-accused Khaggu and Suresh have been granted bail as they had reached the place of incident after the incident and there is specific overt act on the part of the present applicants and caused fracture to the victim by means of lathi, therefore, they are not on the same footings as of co-accused Khaggu and Suresh. Hence, prayed to reject the bail application.

In reply, learned counsel for the applicants has submitted that now investigation is complete and charge-sheet has been filed. Trial will take long time to conclude. It is further submitted that Jahua is the main accused of this case and there is no overt act on the part of the present applicants.

Heard learned counsel for the rival parties and perused the materials available on record.

Considering the facts and circumstances of the present case along-with the fact that the present applicants are not the main accused of the case, without commenting upon the merits of the case, the application is allowed and it is hereby directed that the applicants Banti Banjara and Mohar Singh shall be released on bail on each of them furnishing personal bond of Rs.75,000/- (Rupees Seventy Five Thousand only) with one solvent surety 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 his 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 he 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 kind of offence. In case of commission of any kind of offence, this bail order shall automatically stand cancelled;
- 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 disposed of in above terms.

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

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