

(2021) 05 MP CK 0165

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.22612, 23146 Of 2021

Raj Choyal S/O Laxman Choyal And Others

APPELLANT

Vs

State Of M.P

RESPONDENT

Date of Decision : 18-05-2021

Acts Referred:

Indian Penal Code, 1860 — Section 380, 457

Code Of Criminal Procedure, 1973 — Section 437(3), 439

Citation : (2021) 05 MP CK 0165

Hon'ble Judges : Vivek Rusia, J

Bench : Single Bench

Advocate : ?Vibhor Khandelwal, Rathi, R.K.Shastri

Final Decision : Allowed

Judgement

Vivek Rusia, J

These are first applications filed u/s 439 Cr.p.C seeking bail in connection with Crime no.216/2021 registered at police station Manawar, district Dhar

for the offence punishable under sections 380 & 457 of the IPC.

As per prosecution story, complainant Jyothi w/o Suresh Malviya, R/o Ashram Chouraha, Balipur, Manavar lodged a report in the Manaver police

station on 03.03.2021 that she was out of station from 24.02.2021 to 03.03.2021 and when she came back on 03.03.2021 near about 08.00 A.M she

found that the lock of her Almira was broken and some unknown persons committed a theft of Rs.80,000/- along with ornaments like gold

mangalsutra-2, gold ring-1, silver anklet-1, toe ring-1, thumb ring-2, gold ear ring-1, silver coin-1 and 250 gm. silver from her house. On the basis of the

said complaint an FIR was registered against unknown persons and started investigation. During investigation a discreet information was received by

the police from an informant that some persons were trying to sell the stolen articles in the market and on the basis of the said information the

applicants were arrested and from their possession the stolen articles and cash were recovered. A test identification of the stolen articles was

conducted in which the articles were identified by the complainant.

Learned counsel for the applicants submit that the offence u/s 457 IPC is not made out against the applicants because it is not established that the

alleged theft has been committed in the night. According to the complainant the theft is said to have committed between 24.02.2021 and 03.03.2021.

So far the offence u/s 380 IPC is concerned that is triable by Magistrate. The applicants are aged about 19 & 22 years with no criminal past. So far

as the recovery made from applicant Raj is concerned which is not matching from the description of the articles given in the FIR. The investigation is

over and charge sheet has been filed. There is no progress in trial due to corona epidemic, hence prays for release of the applicants on bail.

Learned Panel Lawyer opposes the bail applications. Considering the facts and circumstances of the case, without commenting on the merits of the

case, the applications filed by the applicants are allowed. They are directed to be released on bail on each of them furnishing a personal bond in the

sum of Rs.40,000/-(Rupees Forty Thousand only) with one solvent surety of the like amount to the satisfaction of the trial Court for their regular

appearance before the trial Court during trial with a condition that they shall remain present before the Court concerned during trial and shall also

abide by the conditions enumerated under section 437(3) Cr.P.C.

Before releasing the applicant from the custody the jail authorities are directed to medically examine them in order to rule out the possibility of

COVID-19 infections and shall comply with the direction given by the Hon'ble Apex Court in Writ Petition No. 1/2020.

C.c as per rules.