
(2020) 12 MP CK 0186

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.52027 Of 2020

Rajkumar Ahirwar And Others

APPELLANT

Vs

State Of M.P

RESPONDENT

Date of Decision : 22-12-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 304B, 498A
Dowry Prohibition Act, 1961 — Section 3, 4

Citation : (2020) 12 MP CK 0186

Hon'ble Judges : Subodh Abhyankar, J

Bench : Single Bench

Advocate : B.K. Upadhyay, Piyush Jain

Final Decision : Allowed

Judgement

Subodh Abhyankar, J

This is the applicants' first application for bail under Section 439 of Cr.P.C. The applicants are in custody since 18.11.2020 in connection with Crime

No.749/2020 registered at Police Station Kotwali, District Hoshangabad (M.P.) for the offences punishable under Sections 304-B, 498-A, 34 of IPC

and Section 3/4 of the Dowry Prohibition Act.

The allegation against the applicants is that the daughter-in-law of the applicant No.2 died on account of electrocution in their house.

Counsel for the applicants has submitted that it is not denied that the marriage of the deceased was solemnized on 28.03.2017, however that itself

cannot be a reason to charge the applicants under Section 304-B of IPC especially when the report as submitted by the Officers of the Electricity

Department clearly reveals that it was an accident. The counsel has submitted

that the applicants are in jail since 18.11.2020 and their continued incarceration in the present case is not required under the facts and circumstances of the case as the final conclusion of the trial is likely to take sufficiently long time on account of Covid-19 situation.

Counsel for the respondent/State on the other hand has vehemently opposed the prayer and has submitted that since the death has occurred within

seven years' of the marriage, hence no case for bail is made out as on earlier occasion also a report was lodged by the deceased herself on

01.10.2020 against the husband of the deceased.

On due consideration of the submissions and on perusal of the case diary including the report submitted by the Electricity Department regarding

malfunctioning of the water pump as there was no earthing available when the incident took place, this Court is of the considered opinion that no

purpose would be served to keep the present applicants in jail. Accordingly, without commenting on the merits of the case, the application is allowed.

It is directed that applicants, namely, Rajkumar Ahirwar and Vishram Ahirwar shall be released on bail upon their furnishing personal bond in the sum

of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with separate surety in the like amount each to the satisfaction of the concerned

C.J.M./trial Court for their 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.

The prison authorities are also requested to ensure compliance of the order passed by the Supreme Court in Writ Petition No. 1/2020 and ensure that

the applicants are examined by the jail doctor before their release.

If the applicants show symptoms of COVID-19, the doctor shall forthwith direct them to be produced before the appropriate hospital designated for

the detection and treatment of COVID-19 patients. If the doctor is of the opinion that the applicants are not affected with the virus, the jail authorities

shall ensure their transportation from the jail to their place of residence.

A typed copy of this order be forwarded to the Office of the Advocate General and to Shri Piyush Jain, learned Panel Lawyer, on their respective

email address, for intimation to the Police Station concerned. The office is requested to forward a copy of this order to the Learned Court below.

With the aforesaid, the present application filed under Section 439 of the Cr.P.C. stands allowed and disposed of.

Certified copy as per rules.