

(2020) 08 MP CK 0101

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 26946 Of 2020

Rakesh Chouhan

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 24-08-2020

Acts Referred:

Indian Penal Code, 1860 — Section 397, 411
Code Of Criminal Procedure, 1973 — Section 438, 438(2)
Evidence Act, 1872 — Section 27

Citation : (2020) 08 MP CK 0101

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : Vipin Yadav, Aishwarya Singh

Final Decision : Disposed Of

Judgement

This is an application for grant of anticipatory bail under Section 438 of the Cr.P.C. for the offences punishable under Sections 379 and 411 of IPC in connection with Crime No.340/2017 registered at Police Station, Kirnapur, District-Balaghat.

Learned counsel for the applicant submits that applicant is a respectable citizen of India. He was previously an elected member of Nagar Panchayat and at present, his wife is a counselor of same Nagar Panchayat. The applicant does not have any criminal history.

As per prosecution story, in November, 2017, an unknown person has stolen a motor cycle. Regarding this incident relating to the said motor cycle, a crime number 340/2017 was registered in the concerned police station. After few years, one Santosh Rahangdale was arrested in relation to a different Crime No.192/2020. During interrogation, Santosh Rahangdale allegedly stated that he had stolen the motor cycle and sold it to Kishan Singh Chouhan in Rs.3000/-. In turn, on the statement recorded under Section 27 of the Evidence Act of one Gajendra, the motor cycle was allegedly recovered from the go-down of Kishan

Singh Chouhan/Thakur.

Shri Vipin Yadav, learned counsel for the applicant submits that applicant has been falsely implicated. Kishan Singh Chouhan is real brother of applicant. The concerned Town Inspector misbehaved with the applicant and applicant promptly lodged a report before the senior police officers on 25.7.2020 (Annexure A-4) Since, the concerned Town Inspector was annoyed with the applicant, the applicant has been falsely implicated. Learned counsel submits that applicant is not owner of the go-down. He has no criminal history. He will cooperate with the investigation. He will not influence the witnesses and evidence in any manner. Learned counsel for the appellant further submits that the motor cycle has already been recovered. The maximum sentence under Section 411 of the IPC is three years with or without fine. As per judgment of Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273, the applicant is entitled to get bail.

Prayer is opposed by the learned P.L. However, she did not dispute that applicant has no criminal record.

Considering the nature of accusation and judgment of Supreme Court in Arnesh Kumar (supra) coupled with the fact that stolen motor cycle has already been recovered, I deem it proper to grant anticipatory bail to the applicant. Applicant, Rakesh Chouhan is directed to join the investigation immediately and fully cooperate with the investigating agency. In the event of his arrest, applicant be released on bail on his furnishing a personal bond in a sum of Rs.50,000/- (Rupees Fifty Thousand Only) along with one surety in the like amount to the satisfaction of arresting officer for his appearance before the Investigating Officer during the course of investigation as and when directed. Conditions of Section 438(2) Cr.P.C. shall apply on the applicant during concurrency of bail.

M.Cr.C is disposed of.

C.C. as per rules.