

(2019) 09 MP CK 0086

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 35588 Of 19

Ramkishore Bandil

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 27-09-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438

Indian Penal Code, 1860 — Section 34, 294, 307, 341, 506(II)

Citation : (2019) 09 MP CK 0086

Hon'ble Judges : Sheel Nagu, J

Bench : Single Bench

Advocate : Sunil Kumar Jain, Anmol Khedkar, Gizala Hashmi

Final Decision : Allowed

Judgement

Learned counsel for the rival parties are heard.

Petitioner has filed this first application u/S. 438 Cr.P.C. for grant of anticipatory bail.

Petitioner apprehends arrest in connection with offence punishable u/S.307/34, 341, 294, 506-II of IPC arising out of private complaint case pending in shape of Criminal Case No. 890/2019 RCJ before the court of JMFC Morena.

Learned Panel Lawyer for the State opposed the application and prayed for its rejection by contending that on the basis of the allegations and the material available on record, no case for grant of anticipatory bail is made out.

Co-accused Pradeep appears to be one who caused injury by using a firearm which has given rise to offence punishable u/S. 307 of IPC. Petitioner has given kick and fist blows without causing any grievous injury. Rival parties have long standing past animosity, therefore possibility of over/false implication cannot be ruled out.

In view of above and considering the fact that there is no possibility of petitioner

fleeing from justice and that the petitioner has already been extended the benefit of interim anticipatory bail by the earlier order passed by this Court on 11.09.2019, which has not been misused and there is no reason to take a different view than the one taken by this Court on 11.09.2019, this Court deems it proper to confirm and continue till finalization of the trial subject to the following additional condition:-

"7. The petitioner shall plant 25 saplings of indigenous fruit bearing or shady trees on the side of the road/street of the place of residence of petitioners or at any other place in the district which is earmarked by the Collector/Revenue Authority for planting trees and shall take care of the trees for the next one year by watering the plants and by installing tree guards at his own expenses. In case the petitioner is unable to afford incurring of such expenses, then he would obtain saplings/tree guard from the forest authorities (the concerned Forest Range Officer of the area) free of cost or at concessional/nominal rates available under any beneficial scheme of the Government. The petitioner shall file an affidavit disclosing compliance of this condition within 30 days in the Registry, failing which this court may consider cancellation of bail.

On complying with condition No.7 aforesaid, the petitioner is directed to inform the location of plantation made to the Forest Range Officer of the area concerned who will pass on this information to the DFO concerned.

For effective implementation of this order in the interest of betterment of ecology of the area concerned, the District Magistrate of district within which the petitioner resides is directed to assist the petitioners/accused to comply with condition No.7 by extending all possible financial and material assistance to the petitioner admissible under any of the beneficial scheme for afforestation of the State.

The DFO of the concerned District is directed to file verification report before the trial Court concerned after carrying out inspection personally or through any other officer of the Forest Dept duly authorised in that behalf disclosing as to whether petitioner has complied with condition No.7 or not, and if yes to what extent?

The learned trial Judge on receiving report of non-compliance of condition No.7 shall forthwith communicate the same to the Registry of this Court.

The Registry on receiving any such report from the trial Court disclosing default shall put up the matter before appropriate Bench in shape of PUD.

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

Let a typed copy of this order be also supplied to the counsel for the State for compliance of the aforesaid directives.

A copy of this order be furnished by the Registry of this court to the concerned District Magistrate and the DFO having territorial jurisdiction over the place of

residence of the petitioner for execution of the order in the interest of the ecology.

For the time being this case stands disposed of."

This anticipatory bail application is, thus, stands allowed. This order be read in conjunction with the interim anticipatory bail order dated 11.09.2019 passed in this case.

A copy of this order be sent for the Court concerned for compliance.