

(2020) 03 MP CK 0070

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 4967 Of 2020

Rinku Sikarwar

APPELLANT

Vs

The State Of Madhya Pradesh

RESPONDENT

Date of Decision : 13-03-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 147, 148, 149, 294, 302, 307, 452

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(5)

Citation : (2020) 03 MP CK 0070

Hon'ble Judges : Sheel Nagu, J

Bench : Single Bench

Advocate : Ankur Tiwari, R.K. Mishra

Final Decision : Allowed

Judgement

This is sixth repeat bail application u/S.439 of the Cr.P.C. filed by the applicant for grant of bail after rejection of earlier one on merits vide order

dated 17/10/2019 passed in M.Cr.C.No.39912/2019 with liberty to come again after examination of eye-witnesses namely Prakash, Pannalal, Batti Bai

and Hemant.

The applicant has been arrested on 25/04/2018 by Police Station Hazira, District-Gwalior in connection with Crime No.198/2013 registered in relation

to the offence punishable u/Ss.147, 148, 149, 302, 307, 452, 294 of IPC and u/S.3(2)(5) of SC/ST (Prevention of Atrocities) Act, 1989.

Learned Public Prosecutor 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 bail is made out.

New ground raised by learned counsel for the applicant is that eye-witnesses namely Smt. Batti Bai (PW/1), Hemant (PW/2), Prakash (PW/3) &

Pannalal (PW/4) have been examined on 30/05/2014, 05/03/2016, 22/08/2017 & 23/10/2017 respectively, copy of testimony of whom are on record

and therefore, release of the applicant shall not be at the risk of influencing prosecution story.

In view of above and considering the fact that applicant is in custody since 25/04/2018 and that early conclusion of the trial is a bleak possibility and

that prolonged pre-trial detention being an anathema to the concept of liberty and the material placed on record does not disclose possibility of

applicant fleeing from justice, this Court is though inclined to extend the benefit of bail to the applicant but with certain stringent conditions in view of

criminal antecedents.

Accordingly, without expressing any opinion on merits of the case, this application is allowed and it is directed that the applicant be released on bail on

furnishing a personal bond in the sum pf Rs.50,000/- (Rs. Fifty Thousand Only) with two solvent sureties each of Rs.25,000/- to the satisfaction of the

concerned Trial Court.

This order will remain operative subject to compliance of the following conditions by the applicant :-

1. The applicant will comply with all the terms and conditions of the bond executed by him;

2. The applicant will cooperate in the investigation/trial, as the case may be;

3. The applicant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to

dissuade him from disclosing such facts to the Court or to the Police Officer, as the case may be;

4. The applicant shall not commit an offence similar to the offence of which he is accused;

5. The applicant will not seek unnecessary adjournments during the trial; and

6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

7. The applicant shall mark his appearance before the concerned trial Court once in a fortnight till conclusion of trial.

8. The applicant shall render community service at the hospital/Community

Health Centre/ Primary Health Centre situated at or in the vicinity of village/Tahsil of residence of applicant for two (2) hours everyday including Sunday till the conclusion of trial.

The nature of community service shall be decided and allotted in writing by the CMO/Head of the hospital/Community Health Centre/Primary Health

Centre situated in close vicinity to the place of residence of applicant. Compliance of this condition shall be ensured and verified by issuing certificate

to be jointly signed by head of hospital/Community Health Centre/Primary Health Centre and Sarpanch/Councilor of the Gram Panchayat/Municipality

concerned. This certificate shall be filed before the Registry of this court once in every month.

It is made clear that in case the applicant is found to be absent in rendering the community service, intimation in that regard shall be given by the head

of hospital/Community Health Centre/Primary Health Centre to the SHO of the Police Station concerned who in turn shall intimate the Registry of this

Court. On receipt of any such complaint, the case shall be put up before the Bench as PUD.

Registry is directed to communicate this order to the SP, Gwalior for onward communication to the Hospital/Community Health Centre/Primary

Health Centre for ensuring compliance.

A copy of this order be sent to the Court concerned and as well as Chief Medical Officer of concerned District for compliance.

C.c. as per rules.