

(2021) 12 MP CK 0084

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.62180 Of 2021

Rishu Rajawat @ Abhay Pratap Singh

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 27-12-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 437(3), 439
Indian Penal Code, 1860 — Section 34, 294, 307
Arms Act, 1959 — Section 25, 27

Citation : (2021) 12 MP CK 0084

Hon'ble Judges : Rohit Arya, J

Bench : Single Bench

Advocate : Prashant Sharma, A.K. Nirankari

Final Decision : Allowed

Judgement

Rohit Arya, J

This is second bail application under Section 439 Cr.P.C. filed on behalf of the applicant. His first bail application was dismissed on 16.09.2021 with liberty to revive his prayer after examination of complainant.

The applicant is in custody since 02.09.2021 in connection with Crime No.57/2021 registered at P.S. Raun, District Bhind (M.P.) for the offence punishable under Sections 307, 294 and 34 IPC and under Sections 25, 27 Arms Act.

As per prosecution story the applicant had come to the house of the complainant and fired gun-shots over a trivial issue, however, it did not allege any injury to any person. Accordingly, case has been registered.

Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the offence. Investigation is complete and the applicant is no more required for custodial investigation. This Court while rejecting the earlier bail application on 16.09.2021 had granted liberty to the applicant to

revive his prayer for bail after examination of the complainant. The complainant has been examined on 10.12.2021. He has belied the story of prosecution. Applicant has suffered jail incarceration from 02.09.2021. Further jail incarceration under the circumstances shall force the applicant to live in the company of hardened criminals and suffer social indignation. Applicant's family is in penury as he is the sole bread-earner. Hence, learned counsel for the applicant prays for enlargement of the applicant on bail on such terms and conditions as this Court deems fit and proper.

Per contra, learned Public Prosecutor opposes the bail application supporting the order impugned with submission that first application of the applicant has been dismissed on merits. There is no change in the circumstances except that the complainant has been examined. However, learned counsel does not dispute that liberty to the aforesaid extent was granted to the applicant. Learned counsel does not dispute that the complainant has turned hostile. Learned counsel also submits that applicant has criminal antecedents of two cases of the year 2020 and hence the applicant is not entitled for enlargement on bail.

Upon hearing learned counsel for the parties though this Court refrains from commenting upon the rival contentions touching the merits of the case, regard being had to the fact that the applicant is in custody since 02.09.2021, he is not required for custodial investigation, in view of the liberty granted on 16.09.2021 and the statement of complainant recorded on 10.12.2021 and due to Covid-19 pandemic, the possibility of delay in conclusion of trial cannot be ruled out. Hence, the applicant is held entitled for enlargement on bail but with stringent conditions.

Consequently, the application preferred by the applicant under Section 439 of the Criminal Procedure Code, 1973 is hereby allowed. It is directed that the applicant be released on bail on furnishing personal bond in the sum of Rs.2,00,000/- (Rupees Two Lacs only) with one solvent surety in the like amount to the satisfaction of the learned Trial Court and on the condition that he shall remain present before the Court concerned during trial and also comply with the conditions enumerated under Section 437 (3) of Criminal Procedure Code, 1973 with following further conditions:

- (i) the applicant shall mark his attendance before the concerned police station on 2nd and 4th Saturday every month between 10:00 a.m. to 12:00 noon;
- (ii) the applicant shall abide by the terms and conditions of various circulars and orders issued by the Government of India and the State Government as well as the local administration from time-to-time in the matter of maintaining social distancing, physical distancing, hygiene, etc., to avoid proliferation of Novel Corona virus (COVID-19);
- (iii) the concerned jail authorities are directed that before releasing the applicant, the medical examination of the applicant be conducted through the jail doctor and if it is prima facie found that he is having any symptoms of COVID-19, then

the consequential follow up action or any further test required, be undertaken immediately. If not, the applicant shall be released on bail in terms of the conditions imposed in this order;

(iv) on violation of conditions, State is free to apply for cancellation of bail;

(v) in future, if the applicant is found to be involved in such nature of cases or any other similar criminal cases or misuse the bail granted by this Court, this bail order shall stand cancelled automatically;

Learned Public Prosecutor is directed to send an e-copy of this order to all the concerned including the concerned Station House Officer of the Police Station for information and necessary action.

E-certified copy as per rules.