(2020) 12 MP CK 0050

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 48879 Of 2020

Sagarmal Patidar S/O Ghasiram Ji Patidar — APPELLANT

Vs

State Of M.P — RESPONDENT

Date of Decision : 08-12-2020

Acts Referred:
Code Of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 120B, 409, 420

Citation : (2020) 12 MP CK 0050

Hon'ble Judges : Vivek Rusia, J

Bench : Single Bench

Advocate : M.A.Mansoori, Ayushyaman Choudhary

Final Decision : Allowed

Judgement

Vivek Rusia, J

This is first application filed under section 438 Cr.P.C seeking anticipatory bail as he apprehends his arrest in connection with Crime No.150/2020

registered at police station Malhargarh, district Mandsaur for the offence punishable under sections 420, 409 & 120-B of the IPC.

As per the prosecution case, the Bank Manager of Malhargarh Branch of Canara Bank made a written complaint to the Police alleging that from

2016 to 2018, 409 gold loans were sanctioned by the then Bank Managers and out of 409 cases, in 87 cases the gold loans were sanctioned by

mortgaging the fake gold ornaments. At the time of giving loan, the genuineness of the gold was got verified by Rajesh Soni, the local goldsmith and on

the basis of his report, loans were sanctioned. Later on, the Bank got verified the mortgaged gold and found that in all 87 loan cases the gold is fake,

hence the FIR be registered. On the basis of aforesaid complaint, the Police registered the FIR against 49 accused including Rajesh Soni and the then Manager of Canara Bank.

Learned counsel for the applicant submits that the applicant has not committed any offence and he has been falsely implicated in the case. He never took loan from the complainant bank. In fact, Rajesh Soni, who is an official valuer of the Bank has obtained the signature of the present applicant on some blank papers and took a loan by mortgaging fake gold ornaments in the Bank. He has committed similar type of offence in as many as 87 loan cases. The investigation is complete and Challan has been filed. The applicant had no knowledge about the aforesaid loan, hence prays for grant of anticipatory bail in the matter.

On the other hand, learned Panel Lawyer opposes the prayer for grant of bail by submitting that applicant did sign the loan papers and took the loan, now he cannot allege that Rajesh Soni took loan in his name. Still he is liable to repay the loan amount to the Bank, which is public money. If he is willing to deposit the loan amount to the Bank, the Court may consider his bail application.

I have perused the case-diary.

So far the defence taken by the counsel for the applicant is concerned, it is a matter of trial and there are as many as 87 cases against the co-accused Rajesh Soni of similar nature and the trial may take time to conclude. However, prima facie the loan was taken in the name of applicant, hence, he is liable to repay the same. If the applicant deposits the loan amount, he can be released on bail.

In reply, learned counsel for the applicant submitted that the loan amount was already repaid by the applicant to the bank on 23.11.2020.

This Court would have directed the applicant to surrender before the Court and apply for regular bail, however, looking to the Corona epidemic this Court deems it fit to extend the benefit of anticipatory bail to the applicant as he has already repaid the loan amount to the bank.

Considering the facts and circumstances of the case, arguments advanced by the counsel for the parties and the fact that the applicant has already repaid the loan amount, without commenting on the merit of the case, the application is allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid crime number, he be released on bail upon his furnishing a personal bond in the sum of Rs.50,000/- (Rupees

Fifty Thousand Only), with one solvent surety in the like amount to the satisfaction of the arresting officer. This order shall be governed by the

following conditions

(a) the applicant shall co-operate with the investigation and make herself available for interrogation by a police officer as and when required;

(b) he shall not directly or indirectly make any inducment, 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 any police officer;

(d) he shall not leave the territory of India without the prior permission of the Court.

C.c. as per rules