

(2021) 02 MP CK 0052

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.6655 Of 2021

Sanjeev Singh Bhadoriya @ Sanju

APPELLANT

Vs

State Of M.P

RESPONDENT

Date of Decision : 05-02-2021

Acts Referred:

Constitution Of India, 1950 — Article 21
Indian Penal Code, 1860 — Section 34, 307, 506
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2021) 02 MP CK 0052

Hon'ble Judges : Vishal Mishra, J

Bench : Single Bench

Advocate : Alok Sharma, Sohith Mishra

Final Decision : Allowed

Judgement

Vishal Mishra, J

In the wake of unprecedented and uncertain situation due to outbreak of the Novel Corona Virus (COVID-19) and considering the advisories issued

by the government of India, this application has been heard and decided through video conferencing to maintain social distancing. The parties are being

represented by the respective counsel through video conferencing, following the norms of social distancing/physical distancing in letter and spirit.

Heard the learned counsel for the parties.

The applicant has filed this first application u/S 439 Cr.P.C. for grant of bail. The applicant has been arrested by Police Station Pavai, District Bhind in

connection with Crime No.62/2019 registered in relation to the offence punishable under Sections 307, 506, 34 of IPC.

It is alleged that the applicant has been falsely implicated in the case due to

previous enmity. It is a case of no injury. The allegation against the applicant is that he has fired a gun shot but the gunshot has not hit any one. Charge sheet has been filed in the matter on 28.01.2021. It is submitted that as far as criminal history of the applicant is concerned, out of 15 cases he has already been acquitted in 13 cases and the order sheets are filed along with the application. He is in custody since 2.1.2021 and prays for grant of bail.

Per contra, counsel for the State has opposed the application stating that the applicant is a habitual offender and is having a criminal history of 15 cases but as the order sheets of 13 cases of acquittal are filed, he could not dispute the same. Factum of filing of charge sheet is not disputed by the State counsel.

The Supreme Court by order dated 23-3-2020 passed in the case of IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS in SUO MOTU

W.P. (C) No. 1/2020 has directed all the States to constitute a High Level Committee to consider the release of prisoners in order to decongest the prisons. The Supreme Court has observed as under :

“The issue of overcrowding of prisons is a matter of serious concern particularly in the present context of the pandemic of Corona Virus (COVID 19).”

Having regard to the provisions of Article 21 of the Constitution of India, it has become imperative to ensure that the spread of the Corona Virus

within the prisons is controlled. We direct that each State/Union Territory shall constitute a High Powered Committee comprising of (i) Chairman of

the State Legal Services Committee, (ii) the Principal Secretary (Home/Prison) by whatever designation is known as, (ii) Director General of

Prison(s), to determine which class of prisoners can be released on parole or an interim bail for such period as may be thought appropriate. For

instance, the State/Union Territory could consider the release of prisoners who have been convicted or are under trial for offences for which

prescribed punishment is up to 7 years or less, with or without fine and the prisoner has been convicted for a lesser number of years than the

maximum.

It is made clear that we leave it open for the High Powered Committee to determine the category of prisoners who should be released as aforesaid,

depending upon the nature of offence, the number of years to which he or she has been sentenced or the severity of the offence with which he/she is

charged with and is facing trial or any other relevant factor, which the Committee may consider appropriate.â??

Considering the overall facts and circumstances of the case, this Court deems it appropriate to allow this application. Accordingly, the application is

allowed. The applicant is directed to be released on bail subject to verification of the fact that the applicant has been acquitted in 13 cases out of 15

cases and, on furnishing a personal bond in the sum of Rs.50,000/-(Rs. Fifty Thousand Only) with one solvent surety of the like amount to the

satisfaction of the Investigation Officer /trial Court, as the case may be with submission of written undertaking and he will abide by all terms and

conditions of the different circulars, orders as well as guidelines issued by the Central Government, State Government as well as Local Administration

for maintaining social distancing, hygiene etc to avoid Novel Corona Virus (COVID -19) pandemic and he will have to install Arogya Setu App, if not

already installed.

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 will inform the concerned S.H.O. of concerned Police Station about his residential address in the said area and it would be the duty of

the Panel Lawyer to send E-copy of this order to SHO of concerned police station as well as Superintendent of Police concerned who shall inform the

concerned SHO regarding the same.

8. In case of involvement of the applicant in any other offence, the bail granted by this Court shall stand rejected automatically.

Application stands allowed and disposed of.

In view of the COVID-19, jail authorities are directed that before releasing the applicant, medical examination of applicant shall be undertaken by the

jail doctor and on prima facie, if it is found that he is having the symptoms of COVID-19, then consequential follow up action including the

isolation/quarantine or any test if required, be ensured, otherwise applicant shall be released immediately on bail and shall be given a pass or permit for

movement to reach his place of residence.

E- copy of this order be provided to the applicant and E-copy of this order be sent to the trial Court concerned for compliance. It is made clear that E-

copy of this order shall be treated as certified copy for practical purposes in respect of this order.