

(2024) 03 MP CK 0041

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 10568 Of 2023

Shera @ Mukesh Sharma And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 15-03-2024

Acts Referred:

Indian Penal Code, 1860 — Section 34, 302

Citation : (2024) 03 MP CK 0041

Hon'ble Judges : Ravi Malimath, CJ;Milind Ramesh Phadke, J

Bench : Division Bench

Advocate : Rakesh Kumar Dubey, Rajesh Shukla

Final Decision : Allowed

Judgement

IA No.21385 of 2023 is filed on behalf of accused No.2 - Shahid Shah seeking for suspension of sentence and grant of bail.

The accused No.2 - Shahid Shah has been convicted for the offence punishable under section 302 read with section 34 of the IPC and sentenced to life imprisonment with fine of Rs.1,000/-, in default of payment of fine to undergo R.I. for 6 months.

Primarily it could be seen that the body of the deceased was found five days after the alleged incident. The body was totally mutilated and could not even be identified. It was ultimately identified by conducting a DNA examination which matched with the deceased.

The only plea of the prosecution is of last seen theory that too even if it is accepted was almost five days prior to the incident. Except that, we do not find any material prima facie against the appellant.

Under these circumstances, we are of the view that the appellant is entitled to be released on bail. Accordingly, I.A. No.21385 of 2023 is allowed.

Appellant No.2 - Shahid Shah is directed to be enlarged on bail subject to he

depositing the fine amount and on furnishing a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount to the satisfaction of the trial Court for his appearance before the trial Court/concerned Court on 15.07.2024 and thereafter on such other subsequent dates as may be fixed in that behalf.