
(2020) 06 MP CK 0078

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 17491 Of 2020

Shivraj @ Shivraj Sahu

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 15-06-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438, 439
Indian Penal Code, 1860 — Section 120B, 420, 467, 468
Constitution Of India, 1950 — Article 21

Citation : (2020) 06 MP CK 0078

Hon'ble Judges : Vishal Mishra, J

Bench : Single Bench

Advocate : Vijay Dutt Sharma, Ravindra Singh Kushwah

Final Decision : Allowed

Judgement

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.

The above mentioned M.Cr.Cs have arisen out of common crime number, therefore they are being disposed of in analogous hearing by this common order.

Heard the learned counsel for the parties.

The applicants have filed this first application u/S.438 Cr.P.C. for grant of anticipatory bail as they have apprehension of their arrest in connection with Crime No.225/2020 registered at Police Station Chanderi, Distt. Ashoknagar for the offences punishable under Sections 420, 467, 468, 120-B of IPC, 1860.

It is submitted by the counsel for the applicants that the applicants are govt. servants. It is submitted that as per prosecution story, they are the witnesses in

the so-called conspiracy being created for registration of sale deed. They are neither the purchaser nor the seller of the property in dispute. The main accused Sandeep Shrivastava has already been enlarged on bail by the trial Court under Section 439 of Cr.P.C. by order dated 05.06.2020. With respect to the sale deed, a civil suit was filed before the trial Court and it was decreed by judgment dated 19.12.2019 on the basis of compromise entered into between the parties and the sale deed has been declared to be null and void. It is further submitted that the applicant are govt. servants and they are ready to abide by all the terms and conditions which may be imposed by this court while considering the application for grant of anticipatory bail and also are ready to contribute an amount of Rs.5000/- each towards the PM Care Fund. There is no possibility of their absconding or tampering with the prosecution case. Counsel for the applicants prays for grant of anticipatory bail to the applicants.

Per contra, Dy. Advocate General for the State opposed the application stating that there are specific allegations against the present applicants and they have signed the sale deed as witnesses.

But the factum that they being govt. servant could not be disputed. However, he submits that it is clear from the judgment and decree of the civil suit itself that there is some conspiracy and the applicants are participated in the conspiracy.

The Hon'ble Supreme by order dated 23.03.2020 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."

Considering the overall facts and circumstances of the case and also the fact that the applicants are govt. servants, this Court deems it appropriate to allow this anticipatory bail application.

Accordingly, application is allowed subject to verification that the applicants are govt. servants. It is hereby directed that in the event of arrest, the applicants namely Shivraj @ Shivraj Sahu & Suresh Kumar Sharma shall be released on anticipatory bail on their furnishing personal bond of Rs.50,000/- (Rupees Fifty Thousand Only) each with one solvent surety each of like amount to the satisfaction of Investigation Officer/trial Court, as the case may be with submission of written undertaking that they will abide by the terms and conditions of different circulars, orders as well as guidelines issued by Central Government, State Government as well as Local Administration for maintaining social distancing, hygiene etc to avoid Novel Corona Virus (COVID-19) pandemic and they 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 applicants :-

1. The applicants will comply with all the terms and conditions of the bond executed by them;
2. The applicants will cooperate in the investigation/trial, as the case may be;
3. The applicants will not indulge themselves in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicants shall not commit an offence similar to the offence of which they are accused.
5. The applicants will not seek unnecessary adjournments during the trial; and
6. The applicants will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.
7. The applicants shall deposit Rs.5000/- each in PM CARE Fund having Account Number : 2121PM20202, IFSC Code:SBIN0000691, SWIFT Code : SBININBB104, Name of Bank & Branch : State Bank of India, New Delhi Main Branch within seven days from today.
8. The applicants will inform the concerned S.H.O. of concerned Police Station about their residential address in the said area and it would be the duty of the Dy. Advocate General to send E-copy of this order to SHO of concerned police station as well as Superintendent of Police, District Ashoknagar who shall inform the concerned SHO regarding the same.

Application stands allowed.

The applicants shall install Arogya Setu App in their mobile immediately and would intimate their place of residence to the SHO of concerned Police Station; where they reside. Applicants further submits the undertaking to the effect that they will abide by the terms and conditions of different circulars, orders as well as guidelines issued by Central Government, State Government as well as Local Administration for maintaining social distancing, hygiene etc to avoid Novel Corona Virus (COVIC-19) pandemic.

E-copy of this order be provided to the applicants 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.

CC as per rules.