
(2021) 06 MP CK 0173

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.30744 Of 2021

Shyam Bijoriya

APPELLANT

Vs

State Of M.P

RESPONDENT

Date of Decision : 24-06-2021

Acts Referred:

Indian Penal Code, 1860 — Section 304, 304A

Citation : (2021) 06 MP CK 0173

Hon'ble Judges : Vivek Rusia, J

Bench : Single Bench

Advocate : Mukesh Sinjonia, Rakesh Singh Bhadoriya

Final Decision : Allowed

Judgement

Vivek Rusia, J

This is first bail application filed by the applicant who is in custody since 29.05.2021 in connection with Crime No.281/2021 registered at police station

M.I.G. District- Indore for the offence punishable under section 304 of the IPC.

As per prosecution case, on 29.03.2021 at 11:30 p.m. this applicant was causing nuisance in toxic condition in front of the house of complainant-

Kamlesh 101, Sanjay Gandhi Nagar, Indore. The complainant came out of the house and objected the same. The applicant has started dispute with

him. The mother of the applicant Ms. Geetabai tried to specify the dispute and the applicant pushed her due to which she fell down and becomes

unconscious. She was taken to the hospital where she was declared brought dead. Information was given to the police however, the police has

registered the FIR on 15.04.2021 with a delay of 16 days under Section 304 of the IPC and this applicant was arrested on 29.05.2021.

Learned counsel for the applicant has submits that the mother of the complainant was died due to cardiac arrest as per the post mortem report. No external injury was found on the body of the deceased. The offence is not made out under section 304 of the IPC. At the most the act of rash and negligence of the applicant under section 304 (part-A) of the IPC. He has no criminal past. Under these circumstances he prays for grant of bail.

Learned Panel lawyer appearing for the respondent/State opposes the prayer by submitting that the eye witness deposed that the applicant pushed the deceased-Geetabai due to which she fell down and becomes unconscious. However, it is a matter of evidence.

Considering the facts and circumstances, without further commenting on the merits of the case, it would be appropriate to enlarge the applicant on

bail. Accordingly, this application is allowed and the applicant is directed to be released on bail upon his furnishing a personal bond in the sum of

Rs.40,000/- (Rupees Forty Thousand) with one surety in the like amount to the satisfaction of the Trial Court for his appearance before that Court

during the pendency of trial.

The applicant is directed to behave in a proper manner in the society and shall not cause nuisance by consuming liquor and if any report against him

comes that he is still consuming liquor and creating nuisance then complainant may file an application for cancellation of the bail application.

Before releasing the applicant from the custody the jail authorities are directed to medically examine him in order to rule out the possibility of COVID

-19 infections and shall comply with the direction given by the Hon'ble Apex Court in Writ Petition No.1/2020.

Certified copy as per rules.