

(2022) 07 MP CK 0102

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.35322 Of 2022

Shyam Mallah

APPELLANT

Vs

M.P. Shasan Dwara Thana Gotegaon Zila

RESPONDENT

Date of Decision : 29-07-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 201, 392, 395
Evidence Act, 1872 — Section 27

Citation : (2022) 07 MP CK 0102

Hon'ble Judges : Sushrut Arvind Dharmadhikari, J

Bench : Single Bench

Advocate : K.S.Patel, Ritwik Parashar

Final Decision : Allowed

Judgement

Sushrut Arvind Dharmadhikari, J

The applicant has filed this first application under section 439 of the Cr.P.C. for grant of bail.

The applicant has been arrested by Police Station Gotegaon, District Narsinghpur (M.P.) in connection with Crime No.257/2022 registered in relation to the offence punishable under section 392, 395 and 201 of I.P.C.

The allegation against the applicant, in short, is that on 7.4.2022 at about 8.00 PM, when complainant was returning from Gadarwara on his motorcycle and reached near Jhansighat petrol pump, at that time the applicant along with three other co-accused persons on two motorcycles came from Jabalpur side and blocked his way. It is alleged that two of them caught hold the complainant and other two accused persons snatched his mobile phone, some tools, documents and cash of Rs.10,000/- from his bag and fled away from the spot. On the aforesaid basis, crime has been registered. . On the aforesaid basis, crime has been registered.

Learned counsel for the applicant submits that the applicant has been falsely implicated. He has been made an accused in this case on the basis of memorandum of co-accused taken under Section 27 of the Evidence Act. He is in custody since 03.05.2022. It is submitted that TIP has been conducted but the applicant is not identified. There is no recovery from the possession of the applicant. Charge-sheet has been filed. No further custodial interrogation is required. Co-accused persons Harsh Rajpoort and Deepak Rajpoot have already been released on bail by this Court vide order dated 01.07.2022 in M.Cr.C. No. 28607/2022 and order dated 17.6.2022 in M.Cr.C.No.28590/2022. Case of the present applicant is similar to that of co-accused persons. Conclusion of trial is likely to take time and there is no likelihood of his absconsion if released on bail. With the aforesaid submissions, prayer for grant of bail is made.

Learned Public Prosecutor for the State opposed the application and prayed for its rejection by contending that on the basis of the allegations and the material available on record, no case for grant of bail is made out.

After hearing aforesaid arguments and looking to the facts and circumstances of the case, without expressing any opinion on merits of the case, this application is allowed and it is directed that the applicant be released on bail 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 concerned trial Court/committal Court.

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 co-operate 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/her from disclosing such facts to the Court or to the Police Office, as the case may be;
4. The applicant will not seek unnecessary adjournments during the trial; and
5. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.
6. If the applicant commits any offence after being released on bail, then this order shall automatically stand cancelled without reference to the Court.

A copy of this order be sent to the Court concerned for compliance.

C.C. as per rules.