

(2021) 10 MP CK 0012

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.49407 Of 2021

Shyam Sunder Lodhi

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 05-10-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 34 Dowry Prohibition Act, 1961 — Section 3, 4

Citation : (2021) 10 MP CK 0012

Hon'ble Judges : S. A. Dharmadhikari, J

Bench : Single Bench

Advocate : Aditya Sharma, Anita Lodhi

Final Decision : Allowed

Judgement

S. A. 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 on 31.05.2021 by Police Station Pichhore, District Shivpuri in connection with Crime No.242/2021 registered in relation to the offence punishable under Sections 304-B, 498-A and 34 of IPC and Section 3/4 of Dowry Prohibition Act.

The allegation against the applicant, in short, is that applicant alongwith other co-accused persons was involved in subjecting the deceased with cruelty due to non-satisfaction of demand of dowry of Rs.One Lakh and one motorcycle and ultimately on 17.04.2021 the deceased consumed poison, due to which she died in her matrimonial home after seven years of her marriage. On the basis of the aforesaid, crime has been registered.

Learned counsel for the applicant submits that the applicant is the husband and he has been falsely implicated in the case. The applicant is in custody since

31.05.2021. The charge sheet has been filed, therefore, no custodial interrogation is required in the case. General and omnibus allegations have been levelled against the applicant and other co-accused persons. Mother, father and brother of the deceased have been examined, who turned hostile and did not support the prosecution story. It is also submitted that in view of outbreak of COVID 19, detention of the applicant in already congested prison may be detrimental. Applicant is permanent resident of District Shivpuri and there is no likelihood of absconson or tampering with the prosecution evidence. He is ready to abide by the terms and conditions imposed by this court. With the aforesaid submissions prayer for grant of bail is made.

Learned Panel Lawyer appearing 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.

However, it would not be desirable to enter into the merits of the rival contentions at this juncture.

Considering the overall facts and circumstances of the case, custody of the applicant, coupled with the fact that trial is not likely to conclude in near future and prolonged pre-trial detention being an anathema to the concept of liberty, this Court is inclined to extend the benefit of bail to the applicant.

Accordingly, 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 trial Court/ committal Court for his appearance on the dates given by the concerned Court. The applicant shall also furnish a written undertaking before the concerned court that he will abide by the terms and conditions of various circulars, as well as, orders issued by the Central Government, State Government and local administration from time to time such as maintaining social distancing, physical distancing, hygiene etc. to avoid proliferation of Corona virus.

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/her from disclosing such facts to the Court or to the Police Officer, 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 . The applicant shall not commit any other offence during pendency of the trial, failing which this bail order shall stand cancelled automatically without further reference to the Bench.

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

Certified copy/E-copy as per rules.