

(2021) 03 MP CK 0077

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 13918 Of 2021

Somdatt Nishad And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 15-03-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 34, 294, 326, 506

Citation : (2021) 03 MP CK 0077

Hon'ble Judges : Akhil Kumar Srivastava, J

Bench : Single Bench

Advocate : R.B. Gautam, Aditya Gupta

Final Decision : Allowed

Judgement

Akhil Kumar Srivastava, J

This is the first bail application filed by the applicants under Section 439 of the Cr.P.C. for grant of bail in connection with Crime No. 42/2021 registered at P.S. N.K.J. District Katni (M.P.) for the offence punishable under sections 294, 326, 506, 34 of the IPC.

As per the prosecution story, applicants are alleged to have assaulted the complainant resulting into grievous injuries on his person.

Learned counsel for the applicants submits that the applicants are innocent and that are in custody since 09.02.2021 and due to Covid situation there is no progress in the trial. There is no likelihood of applicants absconding and tampering with the prosecution evidence and their further custody is not required in this case. On the aforesaid grounds, prayer is made to release the applicants on bail. It is further stated that offence punishable under section 326 of the IPC was subsequently added. It is also stated that the applicant no. 1 is alleged to have armed with the Fawda but there is no injury caused by Fawda on the person of the complainant.

Learned panel lawyer has opposed the submissions made on behalf of the applicants and prayed for rejection of the bail application.

Looking to the facts and circumstances of the case alongwith the role attributed to the applicants in offence and period of custody as well as the fact in near future there is no hope that trial will proceed further and will be concluded due to Covid situation, this application is allowed without commenting anything on the merits of the case. It is ordered that applicants/accused Somdatt Nishad and Rajlu Nishad be released on bail on each of them furnishing a personal bond for the sum of Rs. 50,000/- (Rs. Fifty Thousand Only) with a solvent surety each in the like amount to the satisfaction of the trial court for securing their presence before the said Court on all the dates of hearing fixed in this regard during trial.

The prison authorities are also requested to ensure compliance with the order passed by the Supreme Court in Suo Moto Writ Petition(C) No. 1/2020 and ensure, that the Applicant is examined by the jail doctor before his release. If applicant show symptoms of COVID 19, the doctor shall forthwith direct him to be produced before the appropriate hospital designated for the detection and treatment of COVID 19 patients. If the doctor is of the opinion that the Applicant is not affected with the virus, the jail authorities shall ensure their transportation from the jail till his place of residence.

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 trial;
3. The applicants will not indulge themselves in extending inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicants shall not commit any offence during the entire period of bail.
5. The applicants will not seek unnecessary adjournments during the trial;
6. The applicants will not leave India without previous permission of the trial Court;
7. The applicants shall inform the Court about their address and residence in case the applicants move out from their permanent address for any point of time; and
8. The applicants shall not contact any of the other accused persons in this case in any manner whatsoever.

This order shall remain effective till the end of the trial but in case of bail jump and breach of any of the pre-condition of bail, it shall become ineffective and

cancelled without reference to this Bench.

In the event of breach of any of the conditions imposed by this Court, the complainant/victim/State will be at liberty to move an application for cancellation of bail granted today.

Certified Copy on payment of usual charges.