

(2019) 11 MP CK 0034

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 44733 Of 2019

Thakur Singh

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 02-11-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 161, 437(3), 439
Indian Penal Code, 1860 — Section 301, 302

Citation : (2019) 11 MP CK 0034

Hon'ble Judges : Rohit Arya, J

Bench : Single Bench

Advocate : Nitin Vyas, Amber Pare

Final Decision : Allowed

Judgement

This is second repeat bail application under Section 439 of the Criminal Procedure Code, 1973 on behalf of applicant- Thakur Singh. His first application was dismissed as withdrawn vide order dated 23.09.2019 passed in M.Cr.C. No.26100/2019. The applicant is in jail since 17.05.2019 in connection with Crime No.83/2019 registered at Police Station, Udaygadh, District-Alirajpur for offence punishable under Sections 302 and 201 of IPC.

As per prosecution story, a merge was intimated by the wife of deceased Thodibai on 15.05.2019. During investigation, statements under Section 161 of Cr.P.C. of two eye-witnesses PW.1 Pidiya and PW.2 Thad have been recorded who have implicated the applicant and he was arrested on 17.05.2019. The FIR was lodged on 16.05.2019. In the FIR, it is alleged that applicant and deceased Tudiya were consuming liquor at his place and on some altercation and heated exchange the applicant had killed Tudiya throttling his neck. Thereafter they had seen, the applicant running away from the house of Tudiya, when the wife of deceased Thodibai reached home, she did not find her husband. Accordingly, the case has been registered.

Learned counsel submits that applicant is innocent and has been falsely implicated. Investigation is complete and challan has been filed. He further submits that both the eye-witness (PW.1 & PW.2) have turned hostile and not supported the story of the prosecution. Applicant is a young man, aged 30 years and is in jail since 17.05.2019. Further incarceration in jail shall jeopardized his life and to keep him in the company of hardened criminals is not in the interest of his future life. Applicant is a sole bread earner of his family and due to jail incarceration, the family is on the verge of starvation. Under these circumstances, learned counsel prays for enlargement of the applicant on bail, on such terms and condition this Court deems fit and proper.

Per contra, learned Public Prosecutor opposes the bail application with the submission that four more witnesses have to be examined but, fairly submits that none of them are eye-witnesses and prays for its rejection.

Upon hearing learned counsel for the parties, without commenting upon submissions so advance, the trial is in progress, in the obtaining facts and circumstances, applicant is held entitled for grant of bail. Therefore, the application of the applicant filed under Section 439 of the Criminal Procedure Code, 1973 is hereby allowed.

It is directed that the applicant be released on bail on furnishing personal bond in the sum of Rs.2,00,000/- (Rupees Two Lakhs only) with one solvent surety in the like amount to the satisfaction of the Trial Court and also comply with the conditions enumerated under Section 437(3) of Cr.P.C. as well as the following stringent conditions:-

- (i) the applicant shall report on second and fourth Saturday of every month at Police Station Udaygadh, Distt. Alirajpur between 10 a.m. to 12:00 noon for marking his presence;
- (ii) the applicant shall make himself available for further interrogation, if required on such dates and time fixed by the Investigating Officer,
- (iii) the applicant shall not influence the witnesses and tamper with the evidence, in any manner whatsoever.
- (iv) failure to comply any of the conditions shall entitle the prosecution for cancellation of bail.

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

Certified copy as per rules.