
(2021) 01 MP CK 0104

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.22969 Of 2020

Umashankar And Others

APPELLANT

Vs

State Of M.P

RESPONDENT

Date of Decision : 25-01-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 34, 294, 302, 304, 323, 506

Citation : (2021) 01 MP CK 0104

Hon'ble Judges : Rajeev Kumar Dubey, J

Bench : Single Bench

Advocate : Manish Datt, Manoj Kushwaha

Final Decision : Disposed Of

Judgement

Rajeev Kumar Dubey, J

Heard with the aid of case diary.

Learned counsel for the applicants submitted that applicant no.1 Umashankar died. So, bail application of applicant no.1 Umashankar has become rendered infructuous.

In the report of the Sessions Judge, Balaghat, also it is mentioned that applicant no.1 Umashankar died.

Accordingly, bail application of applicant no.1 Umashankar stands dismissed as rendered infructuous.

This is the first application of applicant no.2 under Section 439 of the Cr.P.C. for grant of bail. Applicant no.2 Manohar was arrested on 09/09/2019 in

connection with Crime No.229/2019 registered at Police Station Gramin Nawegaon, Distt. Balaghat for the offence punishable under Sections 294,

323, 506, 302/34 of the IPC.

Earlier bail application of applicant no.1 Umashankar was dismissed as withdrawn by this Court vide order dated 30/1/2020 passed in MCrC

No.49567/2019.

As per prosecution case on 07/09/2019 at 08:30 P.M. applicant no.2 Manohar and co-accused Umashankar came to deceased Radhelal Lilhare's

house situated at village Gonglai and abused him. When deceased objected, applicant no.2 Manohar and co-accused Umashankar assaulted him by a

piece of tyre. At that point of time, co-accused Arun Lilhare also came there and he also assaulted the deceased. Due to the injuries sustained by

deceased Radhelal in the incident, he died.

Learned counsel for the applicants submits that the applicant no.2 Manohar is innocent and has falsely been implicated in the offence. It is alleged that

the applicant and co-accused Umashankar assaulted the deceased by piece of tyre while according to postmortem report, deceased sustained only one

external injury in the incident. Deceased Radhelal died due to internal injury, so it can not be said that the applicants assaulted the deceased with intent

to kill him. At the most, act of the applicants comes underÂ Â Â the purview of Section 304 of the IPC.

Applicant no.2 Manohar is in custody since 09/09/2019. The conclusion of trial will take time, hence prayed for release of the applicant no.2 Manohar

on bail.

On the other hand learned counsel for the respondent/ State opposed the prayer and submitted that in the dying declaration of the deceased Radhelal,

it is mentioned that the applicant and co-accused assaulted the deceased by piece of tyre and due to the injuries sustained by the deceased in the

incident, he died. So, the applicant no.2 Manohar should not be released on bail.

Looking to the facts and circumstances of the case and the dying declaration of the deceased wherein it is mentioned that the applicant and co-

accused assaulted the deceased and it is also alleged that the deceased died due to injury sustained by him in the incident, this Court is not inclined to

grant bail to the applicant no.2 Manohar. Hence, this application is rejected.

It also appears from the record that applicant no.2 Manohar is in custody since 9/9/2019 and trial is still pending, so it is expected from the trial Court

to dispose of the case as early as possible preferably within six months from the date of receipt of the copy of this order.

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