

(2020) 10 MP CK 0217

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 34443 Of 2020

Vinod Yadav

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 20-10-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 392

Citation : (2020) 10 MP CK 0217

Hon'ble Judges : Subodh Abhyankar, J

Bench : Single Bench

Advocate : Satya Prakash Mishra, Aditya Kherdika

Final Decision : Disposed Of

Judgement

Subodh Abhyankar, J

This order shall also govern the disposal of M.Cr.C.No.26602/2020 as both the cases have arisen out of the same crime Number.

M.Cr.C.No.34443/2020 is the second application under Section 439 on behalf of the applicant Vinod Yadav who is in jail since 18.04.2020 in connection with crime No.110/2020 registered at Police Station: Bahari for the offences under Section 392/ 34 of the IPC. His first bail application being M.Cr.C.No.23451/2020 was dismissed as withdrawn on 06.08.2020.

M.Cr.C.No.26602/2020 is the first application under Section 439 on behalf of applicant Sanjay Singh, who is in jail since 15.07.2020 in connection with crime No.110/2020 registered at Police Station: Bahari, District Sidhi, for the offences under Section 392/ 34 of the IPC.

The allegations against the applicants is one of robbery. It is alleged that on the date of the incident i.e. 17.04.2020, they robbed complainant Sudhir Gupta of Rs.3,000/- and a mobile phone was also snatched from co-complainant Mohit

Gupta.

Learned counsel for the applicants has submitted that charge-sheet in the present case has already been filed and both the applicants are in jail since 18.04.2020 and 15.07.2020 respectively. It is further submitted that the applicants have been falsely implicated in this case as an old enmity lies between the applicant Sanjay Singh and family of Ajit Singh. It is further submitted that perusal of the FIR itself reveals that the complainant party had left the house of Ajit Singh before the incident and after the offence was committed they again came back to the same house of Ajit Singh and thereafter FIR has been lodged.

Counsel has submitted that the uncle of applicant Sanjay Singh namely Lalji Singh has also lodged a report in police station: Bahari on 15.07.2019. Thus, it is apparent that enmity is going on between the parties, which has led to filing of false complaint against the applicant. He has further submitted that there are no criminal antecedents of the applicants and the allegation is related to robbery of meager sum of Rs.3,000/- and a mobile phone. Thus, the applicants be released on bail.

Learned P.L. for the respondent/ State has opposed the prayer and has submitted that a mobile phone has been recovered at the instance of applicant Vinod and four notes of denomination Rs.500/- has been recovered from applicant Sanjay, hence no case for bail is made out.

Having considered the rival submissions and perused the record, I find force with the contention raised by the counsel for the applicants and looking to the fact that a complaint was also lodged by the uncle of applicant Sanjay Singh in the year 2019 against Ajit Singh, whose role appears to be pivotal and the fact that the applicants are in jail since 18.04.2020 and 15.07.2020 respectively and there are no criminal antecedents of the applicant, without commenting on the merits of the case, the applications stand allowed. It is directed that the applicants Vinod Yadav and Sanjay Singh shall be released on bail subject to their furnishing personal bonds in the sum of Rs.50,000/-(Rs. Fifty Thousand Only) each with separate solvent surety in the like amount to the satisfaction of the Trial Court for their appearance before the concerned Court on all the dates of hearing fixed in this behalf by the Court concerned during trial.

The prison authorities are also requested to ensure compliance of the order passed by the Supreme Court in Writ Petition No. 1/2020 and ensure that the applicants are examined by the jail doctor before their release.

If the applicants show symptoms of COVID-19, the doctor shall forthwith direct them 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 applicants are not affected with the virus, the jail authorities shall ensure their transportation from the jail till their place of residence.

A typed copy of this order be forwarded to the Office of the Advocate General

and to Shri Abhinav Kherdikar, Ld. Panel Lawyer, on their respective email address, for intimation to the Police Station concerned. The office is requested to forward a copy of this order to the Learned Court below.

With the aforesaid, the present applications filed under Section 439 of the Cr.P.C. is hereby disposed of.

Certified copy as per rules.