

(2021) 07 MP CK 0189

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.35884 Of 2021

Vivek Singh @ Sonu Bhadoriya

APPELLANT

Vs

State Of MP

RESPONDENT

Date of Decision : 27-07-2021

Acts Referred:

Constitution Of India, 1950 — Article 21

Code Of Criminal Procedure, 1973 — Section 438

Indian Penal Code, 1860 — Section 34, 294, 323, 336, 452, 506

Citation : (2021) 07 MP CK 0189

Hon'ble Judges : G.S. Ahluwalia, J

Bench : Single Bench

Advocate : Vikram Singh Chauhan, A.K. Nirankari

Final Decision : Allowed

Judgement

G.S. Ahluwalia, J

This first application under Section 438 of Cr.P.C. has been filed for grant of anticipatory bail.

The applicant apprehends his arrest in connection with Crime No.39/2021 registered at Police Station Surpura Distt. Bhind for offence under

Section(s) 452, 294, 323, 336, 506, 34 of IPC.

It is submitted by the Counsel for the applicant, that according to the prosecution case, on 15.06.2021, the complainant was sitting in front of Ramjanki temple. At that time, the applicant and other co-accused persons came there and scolded that why they are sitting there and they should go back to

the houses. When it was objected by the complainant, then he was abused by the applicant and co-accused persons. Thereafter, the complainant went

to his house and he was chased by the applicant and co-accused persons. They

also forcibly entered inside the house and assaulted him by fists and blows. The applicant had fired a gunshot in the air. As a result, life of the complainant as well as other persons who were present on the spot came in danger. It is submitted that the allegation of beating is false. Further, the allegations of committing house trespass or firing in the air were made in order to make the offence non-bailable. The applicant has no criminal history. This Court by order dated 06.07.2021 passed in M.Cr.C.

No.32307/2021 has granted anticipatory bail to the co-accused Shivpratap Singh and another.

Per contra, the application is vehemently opposed by the counsel for the State. However, after going through the police case diary, it is fairly conceded by the counsel for the State that there is nothing in the case diary to indicate the criminal antecedents of the applicant.

Considered the submissions made by the Counsel for the parties through video conferencing.

The Supreme Court by order dated 23-3-2020 passed in the case of IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS in SUO MOTU

W.P. (C) No. 1/2020 has directed all the States to constitute a High Powered Committee to consider the release of prisoners in order to decongest the prisons. The Supreme Court has observed as under :

“The issue of overcrowding of prisons is a matter of serious concern particularly in the present context of the pandemic of Corona Virus (COVID 19).”

Having regard to the provisions of Article 21 of the Constitution of India, it has become imperative to ensure that the spread of the Corona Virus within the prisons is controlled.

We direct that each State/Union Territory shall constitute a High Powered Committee comprising of (i) Chairman of the State Legal Services

Committee, (ii) the Principal Secretary (Home/Prison) by whatever designation is known as, (ii) Director General of Prison(s), to determine which

class of prisoners can be released on parole or an interim bail for such period as may be thought appropriate. For instance, the State/Union Territory

could consider the release of prisoners who have been convicted or are undertrial for offences for which prescribed punishment is up to 7 years or

less, with or without fine and the prisoner has been convicted for a lesser

number of years than the maximum.

It is made clear that we leave it open for the High Powered Committee to determine the category of prisoners who should be released as aforesaid,

depending upon the nature of offence, the number of years to which he or she has been sentenced or the severity of the offence with which he/she is

charged with and is facing trial or any other relevant factor, which the Committee may consider appropriate.â??

Considering the allegations, as well as considering the fact the deteriorating situation in view of second wave of Covid19 pandemic, and without

commenting on the merits of the case, it is directed that if the applicant appears before the Investigating officer on or before 03.08.2021 and furnishes

his personal bond in the sum of Rs.1,00,000/- (Rs. One Lac) to the satisfaction of the investigating officer, then he shall be released on bail.

The applicant shall also furnish an undertaking that he shall follow all the instructions which may be issued by the Central Govt./State Govt. or Local

Administration (General or Specific) from time to time for combating Covid19.

The other conditions of Section 438 Cr.P.C. shall remain the same.

This order shall remain in force, till the conclusion of Trial. In case of bail jump, or violation of any of the condition(s) mentioned above, this order shall automatically lose its effect.

In case, if the applicant fails to appear before the investigating officer on the specified date, then this order shall lose its effect.

With aforesaid observations, this application is Allowed.