

(2020) 07 MP CK 0127

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 21876 Of 2020

Yuvraj Singh @ Bhure Yadav

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 10-07-2020

Acts Referred:

Constitution Of India, 1950 — Article 21
Indian Penal Code, 1860 — Section 147, 148, 149, 307, 341
Code Of Criminal Procedure, 1973 — Section 439
Arms Act, 1959 — Section 25, 27

Citation : (2020) 07 MP CK 0127

Hon'ble Judges : Vishal Mishra, J

Bench : Single Bench

Advocate : Sushil Goswami, Purushottam Rai

Final Decision : Allowed

Judgement

In the wake of unprecedented and uncertain situation due to outbreak of the Novel Corona virus (COVID-19) and considering the advisories issued by

the Government of India, this application has been heard and decided through video conferencing to maintain social distancing. The parties are being

represented by the respective counsel through video conferencing, following the norms of social distancing/ physical distancing in letter and spirit.

Heard the learned counsel for the parties.

The applicant has filed this fourth application u/S.439 Cr.P.C. for grant of bail. The applicant has been arrested on 19.06.2019 by Police Station

Pandokhar, District Datia (M.P.) in connection with Crime No.79/2019 registered in relation to the offence punishable u/Ss.307, 341, 148, 149, 147of

IPC and Section 25/27 of Arms Act.

Applicant's earlier bail application was rejected on merits vide order dated 20.02.2020 passed in M.Cr.C. No.6086/2020.

It is submitted that applicant is in custody since 19.06.2019 and charges are being framed against the applicant but only under Section 307 and 149 of

IPC. There is no allegation of firing a gun shot against the present applicant. The allegation of firing a gun shot is against the co-accused Vishambhar

and Sahab Singh. It is submitted that co-accused Dheerendra Yadav and Dharmendra Parihar are already released on bail by this Court vide orders

dated 11.11.2019 and 21.01.2019 passed in M.Cr.C. No.45023/2019 and M.Cr.C. No.971/2020 respectively. He relied upon the judgment of Hon'ble

Supreme Court in the case of Bhausahab Nagu Dhavare Vs. State of Maharashtra, 2001 (3) Crimes 410, wherein under similar principles and looking

to the custody period of eight months Hon'ble Supreme Court has considered and granted bail under Section 307 of IPC. In the present case, custody

period of the applicant is almost one year. The applicant is ready to abide by all the terms and conditions which may be imposed by this court while

considering the application for grant of bail. The applicant has shown his willingness to contribute an amount of Rs.10,000/- towards the PM Care

Fund. There is no possibility of his absconding or tampering with the prosecution case. Counsel for the applicant prays for grant of bail to the

applicant.

Per contra, Panel Lawyer for the State has opposed the bail application stating that there is active participation of the present applicant. On earlier

occasion, application has already rejected on merits but he could not dispute the factum of custody period of the applicant coupled with the fact that

there is no allegation of firing a gun shot against the present applicant.

The Hon'ble Supreme by order dated 23.03.2020 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 Level 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 under trial 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 overall facts and circumstances of the case so also the fact that co-accused have already been granted bail and considering the

guidelines issued by the Hon'ble Supreme Court during this situation of COVID-19 pandemic scenario, this Court deems it appropriate to allow this

application. The application is allowed.

The applicant is directed to be released on bail on furnishing his personal bonds in the sum of Rs.50,000,-(Rs. Fifty Thousand Only) with one

solvent surety of the like amount to the satisfaction of the Investigation Officer/trial Court, as the case may be with submission of written

undertaking and the applicant will abide by all terms and conditions of the different circulars, orders as well as guidelines issued by the Central

Government, State Government as well as Local Administration for maintaining social distancing, hygiene etc to avoid Novel Corona Virus (COVID -

19) pandemic and he will have to install Arogya Setu App, if not already installed.

This order will remain operative subject to compliance of the following conditions by the applicant :-

1. The applicant will comply with all the terms and conditions of the bond executed by him;
2. The applicant will cooperate in the investigation/trial, as the case may be;
3. The applicant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts 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 applicant shall not commit an offence similar to the offence of which he is accused.
5. The applicant will not seek unnecessary adjournments during the trial; and
6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.
7. The applicant shall deposit Rs.10,000/- in PM CARE Fund having Account Number : 2121PM20202, IFSC Code: SBIN0000691, SWIFT Code : SBININBB104, Name of Bank & Branch : State Bank of India, New Delhi Main Branch within seven days from today.
8. The applicant will inform the concerned S.H.O. of concerned Police Station about his residential address in the said area and it would be the duty of the Counsel for the State to send E-copy of this order to SHO of concerned police station as well as Superintendent of Police, District Datia, who shall inform the concerned SHO regarding the same.

Application stands allowed.

In view of the COVID-19, jail authorities are directed that before releasing the applicant, medical examination of applicant shall be undertaken by the jail doctor and on prima facie, if it is found that he is having the symptoms of COVID-19, then consequential follow up action including the isolation/quarantine or any test if required, be ensured, otherwise applicant shall be released immediately on bail and shall be given a pass or permit for movement to reach his place of residence.

E-copy of this order be provided to the applicant and E-copy of this order be sent to the trial Court concerned for compliance. It is made clear that E-

copy of this order shall be treated as certified copy for practical purposes in respect of this order.

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