

THE HIGH COURT OF MADHYA PRADESH
M.Cr.C. No.48582/2018
(Govind Prasad Bansal Vs. State of M.P.)

Gwalior, dated : 14.12.2018

Shri R.K. Sharma, learned Senior Counsel with Shri R.K. Goyal, learned counsel for the applicant.

Shri R.V.S. Ghuraiya, learned Public Prosecutor for the respondent/State.

Shri D.P.S. Bhadouriya and Shri B.D. Sharma, learned counsel for the complainant.

Shri Vikram Pagariya, Deputy Commissioner, Income Tax Department, Gwalior is present in person.

With consent heard finally.

This is the second bail application under Section 439 of Cr.P.C. on behalf of the applicant. The applicant is in custody since 11.10.2018, in connection with Crime No.1062/2018, registered at Police Station City Kotwali, District Morena, for the offence punishable under Sections 353, 332, 186, 294, 323, 506 and 34 of the IPC.

It is the submission of the learned counsel for the applicant that due to inadvertance, one fact has been referred in the earlier bail application that the charge-sheet has been filed. In fact, on the said date, it was in the knowlege of the applicant that Investigation Officer is filing the charge-sheet, but some how charge-sheet could not be filed during that period. After, passing of the order dated 12.11.2018, in earlier bail application vide M.Cr.C. No.42490/2018 charge-sheet has been filed on 03.12.2018 and under the changed circumstances, the applicant is seeking bail under Section 439 of Cr.P.C. Applicant is aged about 68 years and is in confinement since 11.10.2018. He is physcially disabled person also. Since investigation has been completed, charge-sheet has also been filed as well as looking to the nature of offence and his age, he prayed for bail. Applicant is also ready to cooperate in the

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investigation/trial and he further undertakes to cooperate in the post search and seizure proceedings of the Income Tax Department alongwith his son Sanjay Bansal. He will make himself available with Sanjay Bansal as and when required by the investigating officer for the said proceedings. It is further submitted that raid was conducted against the son of applicant Sanjay Bansal. He is participating in the post search and seizure proceedings. Therefore, when the assessee (Sanjay Bansal) and present applicant intend to cooperate in the said proceedings, therefore, no meaningful purpose would be served for confinement of the applicant.

On the other hand, Public Prosecutor for the State on the basis of case diary opposed the bail application and prayed for dismissal of bail application.

Learned counsel for the complainant also opposed the prayer and prayed for dismissal of the same.

Shri Vikram Pagariya, Deputy Commissioner, Income Tax Department is present before this Court as per direction/order dated 10.12.2018 and he submits that documents have been seized and matter is under the Post Search and Seizure proceedings and is taken care of by the Assistant Director, Income Tax Investigation, Gwalior and the applicant and his son Sanjay Bansal have to cooperate in the said proceedings and if they give undertaking regarding their corporation in the proceedings and regular appearance then he has no objection for the same.

Heard the learned counsel for the parties and perused the case diary.

Considering the submissions made by learned counsel for the parties and looking to the fact that charge-sheet has been filed as well as the fact that disposal of trial shall take time, detention of the applicant amounts to pretrial detention and foremost, the

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undertaking of the applicant on his and on behalf of his son Sanjay Bansal to cooperate in the income tax investigation (Post Search and Seizure Proceedings), without expressing any opinion on merits of the case, the application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant be released on bail on furnishing a personal bond in the sum of **Rs.1,00,000/- (Rupees One Lac Only) with two solvent sureties each of Rs.1,00,000/-** in the like amount to the satisfaction of the trial Court for his regular appearance before the trial Court on the condition that he shall remain present before the Court concerned during the trial.

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 will 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 alongwith his son Sanjay Bansal shall cause his appearance on every **Monday** and **Thursday** before the **Assistant Director, Income Tax Investigation, Gwalior** between 11:AM to 4:00 PM, till conclusion of Post Search and Seizure Proceedings/Income Tax Investigation and would cooperate in the post search and seizure proceedings and they will also make themselves available alongwith all the documents as would be sought by the authorities for facilitation of the proceedings. Any default shall be taken seriously and complainant shall be at liberty to

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inform this Court about the same; which would be a ground for cancellation of bail.

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

Certified copy as per rules.

(Anand Pathak)
Judge

Rashid