

THE HIGH COURT OF MADHYA PRADESH**MCRC-11924-2020***(Mohit Kumar Uchadiya Vs. State of M.P.)***Gwalior, Dt. 18.05.2020**

Shri A.V. Tripathi, Advocate, for the petitioner.

Shri A.S. Ghuraiya, Public Prosecutor, for the respondent/State.

Learned counsel for the rival parties are heard.

This is 1st bail application u/S.439 CrPC filed by the petitioners for grant of bail.

Petitioner has been arrested on 18/02/2020 by Police Station Girwai, District Gwalior (M.P.) in connection with Crime No.37/2020 registered in relation to the offences punishable u/S. 8 read with Section 21 of NDPS Act.

Learned Public Prosecutor for the State opposed the application and prayed for its rejection by contending that on the basis of the allegations and the material available on record, no case for grant of bail is made out.

The ground raised by learned counsel for the petitioner is that investigation in the matter is over by filing of charge-sheet before the trial Court on 16/04/2019 where total quantity of 95 gms of smack has been recovered from the petitioner which is much less than commercial quantity as per notification under the Narcotic Drugs and [Psychotropic Substances Act](#), 1985 and therefore, further

custodial interrogation of the petitioner may not be necessary and no purpose would be served to continue incarceration of the petitioner

Since the narcotic drug recovered is less than the prescribed commercial quantity and the offences alleged are not u/Ss.19 or 24 or 27A of NDPS Act, the rigors of provision of Sec.37 of NDPS Act do not come in way of petitioner for grant of bail.

In view of above and considering the fact that petitioner who has no criminal antecedents is in custody since 18/02/2020 and the fact that investigation in the matter is over by filing of charge-sheet and that early conclusion of the trial is a bleak possibility and prolonged pre-trial detention is anathema to the concept of liberty and the material placed on record does not disclose the possibility of the petitioner fleeing from justice, this Court is inclined to extend the benefit of bail to the petitioner.

Undoubtedly, the petitioner is young/middle aged/able bodied responsible citizen. In the present time where the entire humanity is struggling to survive against the Covid-19 pandemic the governmental machinery is experiencing extreme shortage of hands in the process of disaster management, the petitioner as citizen of nation is obliged to assist the govt. in times of this deep crises by discharging their fundamental duty enshrined under Article 51-A(d) which reads thus:-

“51A. Fundamental duties. – It shall be the duty of every citizen of India –

- (a). XXX-XXX-XXX
- (b). XXX-XXX-XXX
- (c). XXX-XXX-XXX
- (d). to defend the country and render national service when called upon to do so;"

Accordingly, this Court deems it appropriate to pass suitable order prescribing it to be a part of one of the conditions subject to which petitioner has been granted bail so that the human resource in shape of the petitioner can be utilized for the betterment of the society and to ward off the crises.

Accordingly, without expressing any opinion on merits of the case, this application is allowed and it is directed that the petitioner be released on bail on furnishing a personal bond in the sum of **Rs. 50,000/- (Rs. Fifty Thousand only) with one local surety of the like amount** to the satisfaction of the concerned Magistrate.

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

1. The petitioner will comply with all the terms and conditions of the bond executed by him;
2. The petitioner will cooperate in trial;
3. The petitioner 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/her from disclosing such facts to the Court;
4. The petitioner shall not commit an offence similar to the

offence of which he is accused;

5. The petitioner will not seek unnecessary adjournments during the trial;

6. The petitioner will not leave India without previous permission of the trial Court;

7. The learned concerned Magistrate and the prosecution are directed to ensure following of Covid-19 precautionary protocol prescribed from time to time by the Supreme Court, the Central Govt. and as well as the State Govt during release, travel and residence of the petitioner during period of bail as a consequence of this order.

8. The petitioner shall register themselves with the District Magistrate, Morena as "Covid-19 Warriors" by entering his name in a Register named as COVID-19 WARRIOR REGISTER. The petitioner then, shall be assigned work of Covid-19 disaster management at the discretion of District Magistrate, Morena by taking all prescribed precautions. The nature, quantum and duration of the work assigned is left to the the wisdom of District Magistrate, Morena. This Court expects that the petitioner shall rise to the occasion to serve the society in this time of crises to discharge his fundamental duty of rendering national service when when call upon to do so as per Article 51-A(d) of the constitution.

Registry is directed to communicate about the passing of this order to the concerned District Magistrate for compliance.

The District Magistrate concerned is directed to intimate this Court in case condition No.8 is not complied with and on receipt of any such intimation, Registry is directed to list the matter before appropriate bench as PUD

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

C.c as per rules.

(Sheel Nagu)
Judge

(suneel)