

THE HIGH COURT OF MADHYA PRADESH

M.Cr.C. No.12833/2020

(RAJENDRA SHAKYA @ RAJU Versus THE STATE OF MADHYA PRADESH)

Gwalior, Dated 19/05/2020

Shri Prashant Sharma, learned counsel for the petitioner.

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

Learned counsel for the rival parties are heard.

Petitioner has filed this first application u/S.438 Cr.P.C. for grant of anticipatory bail.

Petitioner apprehends arrest in connection with offences punishable u/Ss.323, 294, 34, 354 and 354-B of IPC registered as Crime No.93/2020, by Police Station Inderganj, District Gwalior (M.P.).

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 anticipatory bail is made out.

At the very outset, learned counsel for the State submits that case diary is not available but looking to the nature of offence and allegations made which are revealed from the order of lower Court which is on record, it comes to light that on some petty issue of borrowing/return of money, a scuffle took place

between father of the prosecutrix and petitioner. When the prosecutrix rushed out to intervene she was pushed by the petitioner. As a result of which she fell down. FIR does not disclose any allegation as regards the offence punishable u/S.354-B of IPC. Prosecutrix in the present case was 19 years of age and has later made a statement which appears to be an improvement over the story disclosed in the FIR where allegation of petitioner during the scuffle tearing the kurta of the prosecutrix is also alleged.

In view of above, the attempt on the part of the prosecution to improve its story and make the crime graver appears palpable.

Consequently, this inclined to extend the benefit of anticipatory bail to the petitioner.

Undoubtedly, the petitioner is young/middle aged/able bodied responsible citizens. 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 his 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, I deem it appropriate to allow this application u/S. 438 of Cr.P.C. in the following terms.

It is hereby directed that in the event of arrest, the petitioner shall be released on bail on furnishing a personal bond in the sum of **Rs.50,000/- (Rs. Fifty Thousand only) with one solvent surety of like amount** to the satisfaction of the Arresting Authority.

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 the investigation/trial, as the case may be;

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 or to the Police Officer, as the case may be;
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/Investigating Officer, as the case may be;
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 himself with the District Magistrate, Gwalior 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 Gwalior by taking all prescribed precautions. The nature, quantum and duration of the work assigned is left to the the wisdom of District Magistrate, Gwalior. 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 trial Court concerned for compliance.

C.c. as per rules.

(Sheel Nagu)
Judge

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