

HIGH COURT OF MADHYA PRADESH,
BENCH AT GWALIOR

M.Cr.C. No.13598/2020

(Jay Singh Gurjar Vs. The State of Madhya Pradesh)

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Gwalior, dated : 18/5/2020

Shri Tapendra Sharma, Advocate for the applicant.

Shri R.S.Gurjar, Panel Lawyer for the respondent/State.

In pursuance of the directions issued by the Apex Court and guidelines issued by the High Court of Madhya Pradesh in the wake of COVID-19 outbreak , the matter was taken up through video conferencing while adhering to the norms of social distancing prescribed by the Government.

Heard learned counsel for the parties.

Case diary perused.

The applicant has filed this first application under section 439 of the Cr.P.C. for grant of bail.

The applicant has been arrested by Police Station Kotwali, District Shivpuri, in connection with Crime No.12/2020 registered in relation to the offences punishable under sections 407, 467, 468, 120B and 34 of the IPC.

Allegations against the applicant, in short, are that he being driver of the Truck, along with co-accused persons, committed criminal breach of trust by misappropriating the consignment of 23 tonnes (459 sacks) garlic amounting to Rs.24,74,264/- and 3 tonnes (60 sacks) of fenugreek seeds (*Methidana*) valued at Rs.1,45,561/- totalling to Rs.26,19,835/- belonging to the complainant which was

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loaded in the Truck for being transported. An amount of Rs.20,000/- was given by the complainant in advance.

Learned counsel for the applicant submits that applicant is Driver of the truck and has falsely been implicated in the matter. He is in custody since 13/01/2020. The alleged commodity has already been recovered from the owner of the Truck. Charge-sheet has been filed. No further custodial interrogation is necessary. Learned counsel for the applicant further submitted that in view of COVID-19 outbreak, detention of applicant in already congested prisons may be detrimental. There is no likelihood of his absconsion or tampering with the prosecution evidence and he is ready to abide the terms and conditions as imposed by this Court if he is released on bail. Under these grounds applicant prays for bail.

Learned Public Prosecutor 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.

At this stage, learned counsel for the applicant volunteered to deposit an amount of Rs.25,000/- (Rupees twenty five thousand) with Collector, Shivpuri, for utilization in preparation of food and its distribution to downtrodden persons including migrant labours, by any Government Agency/NGO in and around the city of Shivpuri.

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However, it would not be desirable to enter into the merits of the rival contentions at this juncture.

Considering the overall facts and circumstances of the case coupled with the fact that trial is not likely to conclude in near future and prolonged pre-trial detention being an anathema to the concept of liberty, this Court is inclined to extend the benefit of bail to the applicant.

Accordingly, without expressing any opinion on merits of the case, this application is allowed and it is directed that the applicant namely **Jay Singh Gurjar** be released on bail on furnishing a personal bond in the sum of **Rs. 50,000/- (Rupees Fifty Thousand only)** to the satisfaction of the trial Court/committal Court for his appearance on the dates given by the concerned Court. The applicant shall also furnish a written undertaking that he will abide by the terms and conditions of various circulars, as well as, orders issued by the Central Government, State Government and local administration from time to time such as maintaining social distancing, physical distancing, hygiene etc. to avoid proliferation of Corona virus.

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

1. The applicant shall deposit an amount of **Rs.25,000/- (Rupees twenty five thousand)** only with Collector

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Shivpuri and obtain receipt. The office of Collector shall maintain a separate account (for production of the record as and when directed for) and utilize the amount so deposited for disbursement of food packets to the downtrodden people including migrant labours in and around the city of Shivpuri.

The applicant shall submit an attested photocopy of the receipt before the Principal Registrar of this Bench, for placing the same on record of this case.

2. The applicant shall install **Aarogya Setu App** (if not already installed) in his mobile phone.
3. The applicant will comply with all the terms and conditions of the bond executed by him;
4. The applicant will cooperate in the investigation/trial, as the case may be;
5. The applicant will not indulge 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;
6. The applicant will not seek unnecessary adjournments during the trial; and
7. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.
8. **If the applicant commits any offence while on bail, this order shall automatically stand cancelled without reference to the Court.**

Learned Public Prosecutor is directed to send an e-copy of this order to the Station House Officer of the concerned Police Station for information and necessary action.

E- copy of this order be sent to the trial Court concerned for compliance, if possible by the office of this Court.

Certified copy/e-copy as per rules/directions.

(S.A.Dharmadhikari)
Judge