

THE HIGH COURT OF MADHYA PRADESH
MCRC-14985-2020

(MAHESH KUMAR AND OTHERS AND OTHERS Vs THE STATE OF MADHYA PRADESH)

Gwalior, Dated : 03/07/2020

Shri R.S. Yadav, learned counsel for applicants.

Shri Aditya Singh Ghuraiya, learned Public Prosecutor for respondent/State.

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 learned counsel for the parties.

The applicants have filed this second application under section 439 of the Cr.P.C. for grant of bail.

Applicants have been arrested on 26.12.2019 by Police Station Kotwali, District Vidisha (M.P.) in connection with Crime No.449/2013 registered in relation to the offence punishable u/Ss. 420, 467, 468 and 471 of IPC.

It is submitted by learned counsel for applicant that first bail

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application was dismissed on merits vide 19.02.2020 passed in M.Cr.C No.7516/2020 granting liberty to repeat the same after filing of the charge-sheet. Now, investigation is over and charge-sheet has been filed in the matter, therefore, no further custodial interrogation may be necessary. It is submitted that applicants are first offender and they undertake to abide all the condition, which may be imposed by this Court and there is no possibility of their absconding or tempering with the prosecution case. The applicants have shown their willingness to contribute an amount of Rs.5,000/- each towards the **PM Care Fund** and install **Arogya Setu App**. Accordingly, prayer for regular bail have been made.

Per contra, learned counsel for the State has opposed the bail application stating that there is recovery of rin-pustikas for preparation of forged KCC from the present applicants, but the factum of completion of investigation and applicants are the first offenders is not disputed by the State counsel.

The Supreme Court by order dated 23-3-2020 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

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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.”

Considering the overall facts and circumstances of the case and also looking to the custody period of the present applicants and coupled with the fact that investigation is over, therefore further

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custodial interrogation may not be required in the matter, this Court deems it appropriate to allow this application. Accordingly, the application is allowed. The applicants are directed to be released on bail on furnishing a personal bond in the sum of **Rs.50,000/- (Rs. Fifty Thousand Only) each** with one solvent surety of like amount to the satisfaction of the Investigation Officer /trial Court, as the case may be with submission of written undertaking and they shall 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 they 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 applicants :-

1. The applicants will comply with all the terms and conditions of the bond executed by them;
2. The applicants will cooperate in the investigation/trial, as the case may be;
3. The applicants will not indulge themselves in extending

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inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to the Police Officer, as the case may be;

4. The applicants shall not commit an offence similar to the offence of which they are accused.

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

6. The applicants will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

7. **Applicants shall deposit Rs.5,000/- each in PM CARES 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.**

9. The applicant will inform the concerned S.H.O. of concerned Police Station about their residential address in the said area and it would be the duty of the Public Prosecutor to send **E-copy** of this order to SHO of concerned police station as well as Superintendent of Police, concerned who shall inform the concerned SHO

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regarding the same.

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

(Vishal Mishra)
JUDGE

LJ*