

HIGH COURT OF MADHYA PRADESH,
BENCH AT GWALIOR

M.Cr.C. No.20817/2020

(Ashwani Singh Parihar Vs. The State of Madhya Pradesh)

(1)

Gwalior, dated : 31.07.2020

Shri Ravi Dwivedi, Advocate for the applicant.

Shri Ramendra Singh, 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.

Case diary perused.

Learned counsel for the rival parties are heard.

The applicant has filed this first application under section 439 of the Cr.P.C. for grant of bail. The applicant has been arrested on 24.1.2020 by Police Station-City Kotwali, District Bhind in connection with Crime No.78/2019 registered in relation to the offence punishable under Section 420, 467, 468, 471 of IPC and Section 66-C, 66-D of I.T. Act.

Allegation against the applicant in short is that on 07.10.2018, the applicant withdrew Rs.1,60,000/- from the ATM of the complainant by exchanging card and committed forgery.

Learned counsel for the applicant submits that applicant has been falsely implicated in the case. He is in custody since 24.01.2020. Charge-sheet has been filed. No custodial interrogation is required. The F.I.R. was lodged against some unknown persons.

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The applicant has been implicated on the basis of the memorandum recorded under Section 27 of the Evidence Act and the F.I.R. has been registered after lapse of four months from the date of incident which appears to be unjustifiable. The applicant was already in custody in two other cases since 2018 itself. Therefore, false implication cannot be ruled out. Attention has also been invited to the guidelines issued to all the States and Union Territories by the Apex Court for de-congesting the prisons in suo motu **W.P. © No.1/2020 (IN RE: CONTAGION OF COVID 19 VIRUS IN PRISONS)** to consider release of prisoners who have been convicted or are under trial for offences for which prescribed punishment is up to 7 years or less by constituting a High Powered Committee. Due to Covid -19, trial is held up. With the aforesaid submissions, prayer for grant of bail is made.

Learned Panel Lawyer 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.

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.

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Accordingly, without expressing any opinion on merits of the case, this application is **allowed** and it is directed that the applicant be released on bail on furnishing a personal bond in the sum of **Rs. 50,000/- (Rupees Fifty Thousand only) with two solvent sureties of the like amount** 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 before the concerned Court 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 install Arogya Setu App (if not already installed) in his mobile phone;**
2. The applicant will comply with all the terms and conditions of the bond executed by him.
3. The applicant will cooperate in the investigation/trial, as the case may be;
4. 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

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dissuade him/her from disclosing such facts to the
Court or to the Police Officer, as the case may be;

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 shall not commit any other offence during pendency of the trial, failing which this bail order shall stand cancelled automatically without further reference to the Bench.**

Learned Panel Lawyer 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

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