

HIGH COURT OF MADHYA PRADESH**M.Cr.C. No. 23140/2020****(Bhagirath Vs. State of MP)****Gwalior dated 31.07.2020**

Shri R.K. Sharma, Advocate for the applicant.

Shri Purushottam Rai, Panel Lawyer for 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 is perused.

The applicant has filed this First application u/S 439, Cr.P.C. for grant of bail.

The applicant has been arrested by Police Station Phoop, District Bhind in connection with Crime No. 07/2020 registered in relation to the offences punishable under Section 457, 380 of IPC.

Allegations against the applicant, in short, is that the applicant along with co-accused committed theft in the jewellery shop of the complainant and looted golden and silver ornaments worth Rs. 95,000/-. On the basis of aforesaid, crime has been registered.

Learned counsel for the applicant submits that the applicant has been falsely implicated. He is in custody since 20.02.2020. The FIR was lodged against unknown person. The applicant has been implicated in the present case on the basis of memorandum under Section 27 of Evidence Act, which has no evidentiary value. The alleged offence is triable by JMFC. Learned counsel further submits that investigation stands completed by filing of the charge sheet. No further custodial interrogation is required. It is further submitted that trial is held

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up due to COVID-2019 and the applicant cannot be kept in custody for an unlimited period without any substantial reason. 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. (C) 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. He is permanent resident of District Bhind. Conclusion of trial is likely to take time and there is no likelihood of his absconsion, if released on bail. On these grounds, he may be released on bail.

Learned Panel Lawyer for the State opposed the application on the ground that 200 grams of stolen silver ornaments have been recovered from the possession of the applicant and in the TIP the stolen articles have been identified by the complainant. It is further submitted that two more criminal cases of similar nature have been registered against the applicant forming criminal antecedents 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. 10,000/- (Rs. Ten Thousand Only)** in **Prime Minister Citizen Assistance and relief in Emergency Situation Fund (PM Cares Fund)**.

After hearing aforesaid arguments and looking to the facts and circumstances of the case, without expressing any opinion on merits of the case, this application is allowed and it is

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directed that the applicant be released on bail on furnishing a personal bond **in the sum of Rs. 1,00,000/- (Rupees One Lakh only)** with one local solvent surety in the like amount to the satisfaction of the trial Court/committal 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. 10,000/- (Rupees Ten Thousand Only) in Prime Minister Citizen Assistance and relief in Emergency Situation Fund (PM Cares Fund). The applicant shall submit an attested photocopy of the receipt before the concerning Court, for placing the same on record of this case.**

2. He will cooperate in the investigation/trial, as the case may be;

3. He 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. He shall not commit an offence similar to the offence of which he is accused;

5. He will not seek unnecessary adjournments during the trial;

6. He will not leave India without previous permission of

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the trial Court/Investigating Officer, as the case may be;

7. He shall install Arogya Setu App.(If not already installed) in the mobile phone; and

8. If, the applicant commits any offence after being released on bail, then this bail order shall automatically stands cancelled without further reference to this Court.

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

Durgekar*