

HIGH COURT OF MADHYA PRADESH,
BENCH AT GWALIOR

M.Cr.C. No.32664/2020

(Mahendra Singh Gujar Vs. State of Madhya Pradesh)
(1)

Gwalior, dated : 16/9/2020

Shri Sushant Tiwari, Advocate for the applicant.

Shri Rohit Shrivastava, 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 on I.A. No.15359/2020, an application seeking amendment in the cause title.

Learned counsel for the applicant submits that in the bail application due to typographical error Police Station Govardhan District Shivpuri has been mentioned, whereas correct particulars are Police Station Subhash Pura, District Shivpuri.

The I.A. is allowed and instead of P.S. Govardhan District Shivpuri, it is being read as P.S. Subhash Pura, District Shivpuri.

Heard learned counsel for the parties.

Case diary 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 Subhash

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Pura, District Shivpuri, in connection with Crime No.10/2020 registered in relation to the offences punishable under sections 307, 34 of the IPC, 25/27 of the Arms Act and 11/13 of the MPDVPK Act.

Prosecution story, in short, is that on 23/1/2020, complainant/ASI got a tip-off that one dacoit Prahlad was hiding in Jungle of Village Gunaya along with his gang and planning to commit abduction. The Police went to the spot and asked the dacoits to surrender, but instead of surrendering they fired at the police party. Thereafter, all the dacoits ran away taking advantage of dark night. 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 12/6/2020. Charge-sheet has been filed. No further custodial interrogation is required. He has been impleaded on the basis of memorandum of co-accused Sagar alias Pinki recorded under section 27 of the Evidence Act. No TIP was conducted. There is no recovery from the applicant. No specific allegation has been levelled against the applicant and only omnibus allegations have been made against all the culprits. It is further submitted that in view of outbreak of COVID 19, detention of the applicant in already congested prison may be detrimental. Applicant is a permanent resident of Village

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(3)

Sighora, P.S. & Tahsil Jaura, District Morena and there is no likelihood of his absconsion or tampering with the prosecution evidence. Due to COVID-19, trial is held up and there is no possibility of completion of trial in near future. He is ready to abide by the terms and conditions as may be imposed by this Court. With the aforesaid submissions, prayer for grant of bail is made.

Learned Panel Lawyer 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, applicant volunteered to deposit an amount of Rs.5,000/-(Rupees Five Thousand Only) in the account of the High Court Bar Association, Gwalior

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 **Mahendra Singh Gurjar** be released on bail on furnishing a

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personal bond in the sum of **Rs. 50,000/- (Rupees Fifty Thousand only)** with a solvent surety in 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 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.

It is made clear that benefit of bail shall be extended to the applicant only on depositing an amount of Rs.5,000/- (Rupees Five Thousand Only) with High Court Bar Association, Gwalior for the purpose of assistance and rehabilitation of those members of the Bar, who are facing financial distress due to Lockdown and restrictive functioning of the Courts owing to ongoing COVID-19 pandemic. The applicant shall submit an attested copy of its receipt before the concerning Court for keeping the same on record of the case. This Court has no manner of doubt that the office bearers and the Senior members of the Bar shall ensure that the donation reaches the rightful and deserving claimants.

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

1. The applicant shall install **Aarogya Setu App** (if not

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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 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;
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. **If the applicant commits any offence while on bail, this order shall automatically stand cancelled without reference to the Court.**

Learned counsel for the State 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

(and)