

HIGH COURT OF MADHYA PRADESH

M.Cr.C. 34029/2020

(Smt. Padma Mahore vs. State of M.P.)

Gwalior, Dated: 15.09.2020

Shri V.K.Saxena, learned senior Advocate for the applicant.

Shri Dinesh Savita, learned Panel Lawyer for respondent/State.

Shri Ravi Dwivedi, learned counsel for the complainant.

Matter is heard through Video Conferencing.

I.A. No. 15815/2020, an application under section 301(2) of the Cr.P.C. for assisting the prosecution is taken up, considered and allowed for the reasons mentioned therein.

This is the **first** bail application u/S.439 Cr.P.C filed by the applicant for grant of bail.

Applicant has been arrested on 03.09.2020 by Police Station Janakganj, District Gwalior (M.P.) in connection with Crime No.558/2020 registered for the offence punishable under Sections 307,323,324,56,34 of IPC.

It is submitted by learned counsel for the applicant-Smt. Padma Mahore that the applicant is a lady and is not the main accused of this case. The applicant is bare handed. It is further submitted that the injuries caused to the complainant are simple in nature and earlier the case was registered under sections 323, 324, 506,34 of IPC. Thereafter, section 307 has been enhanced. The applicant has not committed any offence as alleged by the prosecution. She is in custody since 26.08.2020. It is further submitted that on the same

date of incident the complainant of this case caused various injuries to the applicant and other family members and the applicant and her family members got various injuries. They have also lodged FIR against the complainant of this case. Due to COVID-19 condition, the trial is adversely effected. Hence, prayed for grant of bail. He further undertakes to abide by all the terms and conditions of guidance, circulars and directions issued by Central Government, State Government as well as Local Administration regarding measures in respect of COVID-19 Pandemic and maintain hygiene in the vicinity while keeping physical distancing.

Per contra, State Counsel has vehemently opposed the bail application and has submitted that the offence is registered under sections 323, 324, 506,34 and 307 of IPC. Hence, prayed for dismissal of the bail application.

Learned counsel for the complainant opposed the same and has submitted that the victim of this case is still hospitalized and has not been discharged yet. He has sustained injuries on his head as well as the case is registered under section 307 of IPC. The injuries caused are fatal, hence prayed for rejection of the bail application.

Heard learned counsel for the parties at length through Video Conferencing and considered the arguments advanced by them and perused the available case-diary.

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 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.”

In view of the aforesaid and considering the facts and circumstances of the case and the fact that the present applicant is in custody since 26.08.2020 and is a lady, without commenting upon the merits of the case, the application is allowed and it is hereby directed

that the applicant shall be released on bail on his furnishing personal bond of **Rs.75,000/-(Rupees Seventy Five Thousand only)** with one solvent surety of the like amount to the satisfaction of the Court concerned for his regular appearance before the Court concerned on the dates fixed by the Court concerned.

In view of COVID-19 pandemic, the Jail Authorities are directed that before releasing the applicant, his Corona Virus test shall be conducted and if it is found negative, then the concerned local Administration shall make necessary arrangements for sending the applicant to his house, and if his test is found positive then the applicant shall be immediately sent to concerning hospital for his treatment as per medical norms. If the applicant is fit for release and if he/she is in a position to make his/her personal arrangements, then he/she shall be released only after taking due travel permission from local administration. After release, the applicant is further directed to strictly follow all the instructions which may be issued by the Central Government/State Government or Local Administration for combating the COVID-19. If it is found that the applicant has violated any of the instructions (whether general or specific) issued by the Central Government/State Government or Local Administration, then this order shall automatically lose its effect, and the Local Administration/Police Authorities shall immediately take him/her in custody and would send him/her to the same jail from where he/she was released.

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

1. The applicant will comply with all the terms and conditions of the bond executed by him;
2. The applicant will cooperate in the investigation/trial, as the case may be;
3. 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 dissuade them from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicant shall not commit an offence similar to the offence of which he is accused;
5. The applicant will not move in the vicinity of complainant party and applicant will not seek unnecessary adjournments during the trial;
6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be; and
7. The applicant will inform the SHO of concerned Police Station about his residential address in the said area and it would be the duty of the State Counsel to send **E-copy** of this order to SHO of concerned Police Station for information.

Application stands allowed and disposed of.

E- copy of this order be sent to the trial Court concerned for compliance.

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

(Rajeev Kumar Shrivastava)
Judge