

HIGH COURT OF MADHYA PRADESH

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M.Cr.C.No.3616/2020

(Phool Singh Vs. State of M.P.)

Gwalior Bench: Dated -19/05/2020

Shri Rajmani Bansal, learned counsel for the applicant.

Shri Vijay Sundaram, learned PL for the respondent/State.

Shri Neeraj Shrivastava, learned counsel for the complainant.

Matter is heard through Video Conferencing.

The applicant has filed this first bail application u/S.439 Cr.P.C for grant of bail. Applicant has been arrested on 10.10.2019 by Police Station Sironj, District Vidisha, in connection with Crime No.418/2019 registered for offence under Sections 302, 307, 294/34 of IPC.

It is the submission of learned counsel for the applicant that false case has been registered against him and he is suffering confinement since 10.10.2019. Charge-sheet has already been filed. It is further submitted that only role attributable over the applicant is to inflict injuries by Lathi wielded by him over injured witness Thansingh and no injuries have been caused by applicant over deceased Harisingh. He submits that his role is to be independently seen and not with the aid of Sections 148 and 149 of IPC as cross-case has also been registered against the complainant party. He relied upon the judgment rendered by the Apex Court in the case of **Gajanand and others vs. State of UP,**

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AIR 1954 SC 695. He undertakes to cooperate in trial and would not be a source of embarrassment/harassment to the complainant party in any manner. 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. He intends to perform community service by way of depositing some amount in the PM CARES Fund. In totality of circumstances prevailing at present of Covid-19, his case be considered sympathetically.

Counsel for the State as well as learned counsel for the complainant opposed the prayer and prayed for dismissal of the bail application.

Heard learned counsel for the parties at length through VC and considered the arguments advanced by them.

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

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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.”

After considering the rival submissions as well as considering the peculiar fact situation, wherein, we are facing

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wrath of pandemic COVID-19, this Court is of the considered opinion that applicant deserves to be released on bail on **humanitarian ground.**

As this Court is not in a position to consider the facts of the case in detail, however, considering the fact that in view of Covid-19 pandemic, without commenting on the merits of the case, it is hereby directed that the applicant shall be released on bail on his furnishing personal bond of **Rs.50,000/- (Rupees Fifty Thousand only)** to the satisfaction of trial Court and that he will have to install **Arogya Setu App**, if not already installed. **Bail bond shall be furnished within one and half month as and when situation moves out of Lock-down.**

In view of COVID-19 pandemic, the jail authorities are directed that before releasing the applicant, his preliminary Corona Virus test shall be conducted and if he is found negative, then the concerned local administration shall make necessary arrangements for sending the applicant to his house, and if he is found positive then the applicant shall be immediately sent to concerned hospital for his treatment as per medical norms. If the applicant is fit for release and if he is in a position to make his personal arrangements, then he shall be released only after taking

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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 Govt./State Govt. or Local Administration for combating the Covid19. If it is found that the applicant has violated any of the instructions (whether general or specific) issued by the Central Govt./State Govt. or Local Administration, then this order shall automatically lose its effect, and the Local Administration/Police Authorities shall immediately take him in custody and would sent him to the same jail from where he 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

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offence of which he is accused;

5. The 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 Public Prosecutor to send **E-copy** of this order to SHO of concerned police station for information.

8. Applicant shall deposit Rs.5,000/- 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.

Application stands allowed and disposed of.

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

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

**(Anand Pathak)
Judge**

ms/-