

The High Court Of Madhya Pradesh

MCRC-44028-2020

(JAGDISH KUSHWAHA Vs STATE OF MP)

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Gwalior, Dated : 20/11/2020

Shri Mayank Bajpai, learned counsel for the applicant.

Shri Rajeev Upadhyay, learned Panel Lawyer for the respondent/State.

Matter is heard through video conferencing.

I.A. No.20590/2020, an application for urgent hearing, is taken up, considered and allowed for the reasons mentioned therein.

The applicant has filed this second bail application u/S.439 Cr.P.C for grant of bail. Earlier application was dismissed as withdrawn with liberty to file fresh application after filing charge-sheet. Applicant has been arrested on 24/08/2020 by Police Station-Sihore, Distt. Shivpuri (M.P.) in connection with Crime No. 120/2020 registered for offence punishable under Sections 379 and 414 of IPC.

It is submitted by learned counsel for the applicant-Jagdish Kushwah that the applicant has not committed any offence. He has falsely been implicated in this case. Applicant is in custody since 24/08/2020. It is submitted that due to COVID-19 Pandemic, trial will take time to conclude. It is further submitted that now investigation is complete and charge-sheet has been filed. Hence, prayed for grant of bail. He further undertakes to abide by all the

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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.

Learned counsel for the State has vehemently opposed the application and has submitted that the offence have been registered under Section 379 and 414 of IPC which is related to theft of sand which affects the eco-system and society at large. Therefore, he prays for rejection of the present bail application.

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

Considering the facts and circumstances of the case, 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 in the like amount to the satisfaction of the trial Court concerned for his regular appearance before the trial Court concerned on the dates fixed it.

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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 is in a position to make his personal arrangements, then he 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 Govt./State Govt. 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 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 send 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 :-

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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. In case of repetition of offence, this bail order shall automatically stand cancelled;
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;
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 mark his presence before the SHO of the concerned Police Station **once a month** till conclusion of the trial. The concerned SHO is directed to submit attendance report of the applicant before the Principal Registrar of this Court once in every quarter of a year.

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