

**HIGH COURT OF MADHYA PRADESH****M.Cr.C. No. 10069/2021****(Umesh Paliya (Paliya) Vs. State of MP)****Gwalior dated 01.03.2021**

Shri Rahul Bansal, Advocate for the applicant.

Shri V.P.S. Tomar, Panel lawyer for Respondent/State.

Case Diary is perused.

Learned counsel for the rival parties are heard.

The applicant has filed this second application under section 439 of the Cr.P.C. for grant of bail. The first one was dismissed as withdrawn vide order dated 11/01/2021 passed in M.Cr.C. No. 51962/2020.

The applicant has been arrested by Police Station Gohad, District Bhind, in connection with Crime No.181/2020 registered in relation to the offences punishable under sections 307, 34 of the IPC read with 25,27 of the Arms Act.

Allegations against the applicant, in short, are that on 21/6/2020, at about 6.30 AM, when the complainant had gone for getting the tyres of his Motorcycle inflated to the shop of Jeetu Puncturewala, at that time, co-accused Kalicharan Sharma (Paliya), Rakesh Sharma, present applicant and Vijay Paliya came in a Santro Car and started firing from their guns. Co-accused Rakesh, with an intention to kill, fired at the complainant which passed by his right shoulder and the pellets hit him on his chest and face. Thereafter, the complainant somehow escaped and saved himself. On the basis of aforesaid crime has been registered.

Learned counsel for the applicant submits that applicant has been falsely implicated in the case. He is in custody since 18/8/2020. Charge-sheet has been filed. No further custodial interrogation is required. There is no allegation of firing at the complainant against the present applicant. He had only

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accompanied the other coaccused persons in the Car. A cross-case has been registered at Crime No. 180/2020 for the offence under section 307 read with 34 of the IPC. In fact the complainant was the aggressor and the present applicant has been falsely implicated. Trial is held up due to COVID-2019 and detention of the applicant in already congested prison may be detrimental. He is permanent resident of Village Beelpura, Tahsil Gohad, District Bhind and there is no likelihood of his absconsion, if released on bail. With the aforesaid submissions, prayer for grant of bail is made.

Learned counsel for the State 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. There is every possibility of tampering with the prosecution evidence of the present applicant is released on bail. As such, no indulgence is warranted.

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 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 two local solvent sureties 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.

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

1. He will cooperate in the investigation/trial, as the case may be;
2. 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;
3. He shall not commit an offence similar to the offence of which he is accused;
4. He will not seek unnecessary adjournments during the trial;
5. He will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be;
6. He shall install Arogya Setu App.(If not already installed) in the mobile phone; and
7. 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 State counsel 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**