

**THE HIGH COURT OF MADHYA PRADESH**  
**MCRC-11768-2021**  
*(RAKESH RATHOR Vs THE STATE OF MADHYA PRADESH)*

**Gwalior, Dated : 01/03/2021**

Shri S.P. Singh, learned counsel for applicant.

Shri Atul Sharma, learned Panel Lawyer for respondent/State.

The applicant has filed this third application u/S 439 Cr.P.C. for grant of bail. Earlier bail applications were dismissed on merits as well as withdrawn vide orders dated 10.09.2020 in M.Cr.C. No. 31120/2020 and 19.11.2020 in M.Cr.C. No. 41634/2020 respectively.

The applicant has been arrested by Police Station Gohad Chauraha, District Bhind in connection with Crime No.132/2020 registered in relation to the offence punishable under Section 305 of IPC.

It is submitted by the counsel for the applicant that the applicant has been falsely implicated in the case and he has not committed any offence in any manner. It is further submitted that the applicant is a young boy of 19 years of age. It is further submitted that the investigation is over in the matter and the charge sheet has been filed in the matter. Therefore, there is no further requirement of custodial interrogation of the present applicant. The applicant is ready to abide by all the terms and conditions which may be imposed by this court while considering the application for

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grant of bail. Looking to the custody period and nature of offence, he prays for bail.

Per contra, learned counsel for the State has opposed the application and submits that earlier his bail appeal has recently been rejected on merits vide order dated 10.09.2020 passed in M.Cr.C. No. 31120/2020, therefore, in absence of any new ground, the present bail deserves to be dismissed. Hence, he prays for dismissal of the present appeal. But he fairly submits that as per case diary he is having no criminal antecedent. Factum of filing of charge is also not disputed by the State counsel.

Taking into overall facts and circumstances of the case as well as considering the fact he is in custody, this Court deems it appropriate to allow this application, accordingly, the *application is allowed subject to verification of the fact that he is having no criminal antecedent*. The applicant is directed to be released on bail on furnishing a personal bond in the sum of **Rs.50,000/- (Rs. Fifty Thousand Only) with one solvent surety** of like amount to the satisfaction of the Investigation Officer /trial Court, as the case may be with submission of written undertaking and he shall abide by all

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terms and conditions of the different circulars, orders as well as guidelines issued by the Central Government, State Government as well as Local Administration for maintaining social distancing, hygiene etc to avoid Novel Corona Virus (COVID -19) pandemic and he will have to install **Arogya Setu App**, if not already installed.

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 him 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 seek unnecessary adjournments during the trial; and
6. The applicant will not leave India without previous permission

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of the trial Court/Investigating Officer, as the case may be.

7. The applicant will inform the concerned S.H.O. 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 as well as Superintendent of Police, concerned who shall inform the concerned SHO regarding the same.

In view of the COVID-19, jail authorities are directed that before releasing the applicant, medical examination of applicant shall be undertaken by the jail doctor and on prima facie, if it is found that he is having the symptoms of COVID-19, then consequential follow up action including the isolation/quarantine or any test if required, be ensured, otherwise applicants shall be released immediately on bail and shall be given a pass or permit for movement to reach his place of residence.

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

**(Vishal Mishra)**  
**JUDGE**