

**The High Court of Madhya Pradesh**

**Merc. 18901/2021**

**(Smt. Phoolwati Vs. State of M.P.)**

**Gwalior dated 22.04.2021**

Shri Saket Udainiya, learned counsel for petitioner.

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

Learned counsel for the rival parties are heard through video conferencing.

Case-diary is perused.

This is first application u/S.438 Cr.P.C. for grant of anticipatory bail by the petitioner.

Petitioner apprehends arrest in connection with offences punishable u/Ss. 304-B, 498A/34 IPC and Ss.3, 4 of Dowry Prohibition Act registered as Crime No.36/2021 by Police Station Gohad, District Bhind (M.P.).

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 anticipatory bail is made out.

Petitioner being mother-in-law is alleged with dowry death related cruelty. Deceased died due to hanging. Postmortem report does not disclose any injury on the body except ligature mark. Allegation against petitioner appears to be more or less omnibus in nature.

Thus considering the above and merely on the basis of

petitioner being woman aged 65 years who may not be able to bear rigors of incarceration and more so in view of second wave of Covid-19 pandemic coupled with facts that material placed on record does not disclose the possibility of petitioner fleeing from justice, this Court is inclined to extend the benefit of bail to the petitioner.

Accordingly, without expressing any opinion on merits of the case, I deem fit appropriate to allow this application u/S. 438 of Cr.P.C. in the following terms.

It is hereby directed that in the *event of arrest*, the petitioner shall be released on bail on furnishing a personal bond in the sum of **Rs. 25,000/- (Rs. Twenty Five Thousand only) with one solvent surety of the like amount** to the satisfaction of the Arresting Authority.

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

1. The petitioner will comply with all the terms and conditions of the bond executed by her;
2. The petitioner will cooperate in the investigation/trial, as the case may be;
3. The petitioner will not indulge herself 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;
4. The petitioner shall not commit an offence similar to the offence of which she is accused;

5. The petitioner will not seek unnecessary adjournments during the trial;

6. The petitioner will not leave India without previous permission of the concerned available Magistrate/Investigating Officer, as the case may be;

The petitioner has gracefully agreed to act as a Shiksha Swayamsevak by rendering physical and financial assistance to government primary school situated nearest to residence of petitioner for ensuring hygiene and sanitation and for removing deficiencies of infrastructural amenities in the said school from the skill/resources of the petitioner. [याचिकाकर्ता ने एक शिक्षा स्वयंसेवक के रूप में अपने निवास के निकट अवस्थित सरकारी प्राथमिक विद्यालय में स्वच्छता और आरोग्य को सुनिश्चित करने के लिए शारीरिक एवं वित्तीय सहायता प्रदान करने एवं अपने कौशल व संसाधनों से उक्त विद्यालय में अवसंरचनात्मक सुविधाओं की कमियों को दूर करने की स्वेच्छया सहमति प्रदान की है।]

The petitioner after selecting a particular Govt. Primary School shall inform about the same to the office of Gram Panchayat (in case of rural area) and/or Ward Officer of the concerned ward (in case of urban area), within whose territorial jurisdiction the said school is situated. [याचिकाकर्ता एक विशिष्ट प्राथमिक सरकारी स्कूल का चयन करने के पश्चात् इसके बारे में ग्राम पंचायत के कार्यालय (ग्रामीण क्षेत्र के मामले में) और/या सम्बंधित वार्ड के वार्ड अधिकारी (शहरी क्षेत्र के मामले में) जिसके क्षेत्राधिकार में उक्त स्कूल अवस्थित है, को सूचित करेगा।].

It will be joint responsibility of Sarpanch and Secretary of said Gram Panchayat (in case of rural area) and/or Ward Officer of the concerned ward (in case of urban area) to preserve the said information provided by the petitioner. [यह सम्बंधित वार्ड के वार्ड अधिकारी (शहरी क्षेत्र के मामले में) और/या उक्त ग्राम पंचायत के सरपंच और सचिव (ग्रामीण क्षेत्र के मामले में) की संयुक्त जिम्मेदारी होगी कि, याचिकाकर्ता द्वारा प्रदत्त सूचना को संरक्षित करे।].

The Registry of this Court shall communicate this order through Legal Aid Officer, SALSA, Gwalior to the Collector, District Education Officer, Block Education Officer of the district/block concerned for information and follow up.

A copy of this order be supplied to the Legal Aid Officer, SALSA, Gwalior who is directed to communicate this order to the District Education Officer, Block Education Officer of the district/block concerned who in turn shall encourage the petitioner to indulge in community service as aforesaid.

A copy of this order be sent to the court below for information.

C.c as per rules.

**(Sheel Nagu)**  
**Judge**

**(Bu)**