

The High Court of Madhya Pradesh

Merc. 38351.2021

[Shishupal Singh Vs. State of M.P.]

Gwalior dated 03.08.2021

Shri Anurag Sharma, learned counsel for petitioner.

Shri Vijay Sunderam, learned Panel Lawyer for respondent/State.

Heard through video conferencing.

Case-diary is read over by counsel for State.

The petitioner has filed this fourth repeat application u/S. 439 of Cr.P.C. for grant of bail after rejection of earlier one on merits and as well by granting liberty to petitioner to come again after examination of main PWs by order dated 11/11/2020 in Merc 41706.2020.

The petitioner has been arrested on 24/2/2020 by Police Station Mehgaon, District Bhind (M.P.) in connection with Crime No. 403/2019 registered in relation to the offences punishable u/Ss. 307/34, 302 IPC, Ss. 25/27, 25(1-b)(h) and 21 of Arms Act.

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.

New ground taken in this repeat application is examination of remaining eye-witness Pramod as PW-1 on 26/7/2021 and

therefore release of petitioner shall not be at the risk of influencing prosecution case.

Considering the above fact and further looking to special circumstances of second wave of Covid-19 pandemic and that early conclusion of trial is a bleak possibility and prolonged pre-trial detention being an anathema to the concept of liberty and the material placed on record does not disclose 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, this application is allowed and it is directed that the petitioner 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 the like amount to the satisfaction of the concerned available Magistrate.

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

1. The petitioner will comply with all the terms and conditions of the bond executed by him;
2. The petitioner will cooperate in the trial;
3. The petitioner 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;

4. The petitioner shall not commit an offence similar to the offence of which he is accused;

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

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

7. The learned concerned available Magistrate and the prosecution are directed to ensure following of Covid-19 precautionary protocol prescribed from time to time by the Supreme Court, the Central Govt. and as well as the State Govt during release, travel and residence of the petitioner during period of bail as a consequence of this order.

8. Petitioner shall plant 10 saplings of indigenous fruit bearing or shady trees on the side of the road/street of the place of residence of petitioner or at any other place in the district which is earmarked by the Collector/Revenue Authority for planting trees and shall take care of the trees for the next one year by watering the plants and by installing tree guards at his own expenses. In case the petitioner is unable to afford incurring of such expenses, then he would obtain saplings/tree guard from the forest authorities (the concerned Forest Range Officer of the area) free of cost or at concessional/nominal rates available under any beneficial scheme of the Government. Petitioner shall file an affidavit disclosing compliance of this condition within 30 days in the Registry, failing which this court may consider cancellation of bail.

On complying with condition No.8 aforesaid, the petitioner is directed to inform the location of plantation made to the Forest Range Officer of the area concerned who will pass on this information to the DFO concerned.

For effective implementation of this order in the interest of betterment of ecology of the area concerned, the District Magistrate of district within which the petitioner resides is directed to assist the petitioner/accused to comply with condition No.8 by extending all possible financial and material assistance to the petitioner admissible under any of the beneficial scheme for afforestation of the State.

The DFO of the concerned District is directed to file verification report before the trial Court concerned after carrying out inspection personally or through any other officer of the Forest Dept duly authorised in that behalf disclosing as to whether petitioner has complied with condition No.8 or not, and if yes to what extent?

The learned trial Judge on receiving report of non-compliance of condition No.8 shall forthwith communicate the same to the Registry of this Court.

The Registry on receiving any such report from the trial Court disclosing default shall put up the matter before appropriate Bench in shape of PUD.

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

Let a typed copy of this order be also supplied to the counsel for the State for compliance of the aforesaid directives.

A copy of this order be furnished by the Registry of this Court to the concerned District Magistrate and the DFO having territorial jurisdiction over the place of residence of the petitioner for execution of the order in the interest of the ecology.

C.c as per rules.

(Sheel Nagu)
Judge

(Bu)