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**THE HIGH COURT OF MADHYA PRADESH**  
**MCRC-50169-2021**  
**Kamlesh Sharma Vs. State of M.P.**

**Gwalior, Dated : 20/10/2021**

Shri R.K. Shrivastava, counsel for applicant

Shri C.P. Singh, counsel for respondent/ State.

Shri V.D. Sharma, counsel for complainant.

Case Diary is available.

This second application under Section 438 of CrPC has been filed for grant of anticipatory bail. The first application for anticipatory bail was dismissed by order dated 22.09.2021 passed in M.Cr.C. No.45608/2021 as withdrawn with liberty to file a fresh application with all necessary documents to show his innocence.

The applicant apprehends his arrest in connection with Crime No. 319/2021 registered at Police Station Mehgaon, District Bhind for offence punishable under Sections 420, 467, 468/34 of IPC.

The first application for anticipatory bail was dismissed by order dated 22.09.2021 as withdrawn with liberty to file a fresh application with all necessary documents to show his innocence. However, it is not out of place to mention here that on the same date co-accused – Bharatlal Bhargava was granted anticipatory bail by order dated 22.09.2021 passed in M.Cr.C. No.46849/2021.

It is submitted by counsel for applicant that applicant was working as Panchayat Secretary and since order of his transfer dated 09.09.2020 was not on record at the time of hearing of first bail

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application, therefore, it was withdrawn and now the applicant has filed all the relevant documents along-with copy of transfer order dated 09.09.2020 along-with I.A. No.30356/2021.

Accordingly, **I.A. No.30356/2021** is hereby allowed and the documents filed along-with the said application are taken on record.

It is submitted by the counsel for the applicant that in the year 2002, Bharatlal Bhargav (co-accused who has been granted anticipatory bail by order dated 22.09.2021 passed in M.Cr.C. No.46849/2021) was the Panchayat Secretary and it is alleged that a resolution was passed by the Gram Panchayat thereby expressing no objection on the possession of Sobharam, Jaswant, Prabhudayal and Munnilal on the Abadi land. It is submitted that a similar resolution was passed by the Gram Panchayat in the year 2016 and at that time the applicant was posted as Panchayat Secretary. The resolutions passed in the year 2002 and 2016 were challenged before the SDO (Revenue) Mehgaon, District Bhind in Case No. 120/2017-18/A.MA., which was allowed by order dated 30/08/2019 and the resolutions dated 20/02/2002 and 21/03/2016 were set aside.

However, on an appeal, the Collector, District Bhind in Case No.1/2019-20/A-89(15) has set aside the order of SDO (Revenue) Mehgaon, District Bhind by order dated 22/12/2020 on the ground that a civil suit is already pending between the parties and it would

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not be appropriate for the revenue courts to give any findings on the issue, which is a subject matter of the civil suit. Thus, it is submitted that at present the resolution dated 20/02/2002 and 21/03/2016 are still good and the said resolution was passed by the Gram Panchayat and it cannot be said that the applicant who was working as a Panchayat Secretary is directly or indirectly responsible for the resolution passed by Gram Panchayat. It is submitted by the counsel for the applicant that applicant is ready and willing to co-operate with the Investigating Officer. The trial is likely to take sufficiently long time and there is no possibility of his absconding or tampering with the prosecution case.

Per contra, the anticipatory bail application is vehemently opposed by the counsel for the State as well as the counsel for the complainant.

Considering the facts and circumstances of the case and without commenting on the merits of the case, the application is **allowed** subject to condition that if the applicant appears before the Investigating Officer (Arresting Officer) **on or before 27.10.2021**, he shall be released on bail on his furnishing a personal bond in the sum of **Rs. 1,00,000/- (Rupees One Lac)** with one surety in the like amount to the satisfaction of the Arresting Officer (Investigating Officer).

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The applicant shall make himself available for interrogation by the Investigating Officer as and when required. He shall further abide by the other conditions enumerated in sub-section (2) of Section 438 of Cr. P. C.

It is made clear that in case if the applicant fails to appear before the Investigating Officer (Arresting Authority) on or before 27.10.2021, then this order shall lose its effect and the Investigating Officer shall be at liberty to take him in custody.

In the light of the judgment passed by the Supreme Court in the case of **Aparna Bhat & Ors. vs. State of M.P. passed on 18/3/2021 in Criminal Appeal No.329/2021**, the intimation regarding grant of bail be sent to the complainant.

CC as per rules.

**(G.S. Ahluwalia)**  
**Judge**