

HIGH COURT OF MADHYA PRADESH**M.Cr.C. No. 8300/2021****(Vishal Vs. State of MP)****Gwalior dated 01.03.2021**

Shri Raj Shrivastava, 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 Third application u/S 439, Cr.P.C. for grant of bail. First and second bail applications were dismissed on merits vide orders dated 02/11/20 & 04/11/20 passed in M.Cr.C. No. 33012/2020 & 45077/2020.

The applicant has been arrested by Police Station-Dinara, District- Shivpuri in connection with Crime No.149/2020 registered for the offences punishable under Sections 307, 393, 394 34 of IPC, Sections 11/13 of MPDVPK Act and Sections 25/27 of Arms Act.

Allegations against the applicant and other co-accused in short is that they entered into jewellery shop of the complainant and demanded the jewellery. After showing them the jewellery instead of making payment, they took out the Katta and co-accused fired on the complainant due to which he received injuries whereas Katta wielded by the co-accused fell down on the ground and thereafter both of them ran away from the spot sensing danger. On the aforesaid basis, crime has been registered against the applicant.

In the application, it is submitted that applicant has falsely been implicated in the matter and he is in custody since 20/06/2020. The applicant has not committed the alleged offence. He is innocent and not involved directly or indirectly in commission of said offence. Even in view of averments of FIR, no alleged offence is made out against the applicant. It is

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submitted that charge-sheet has been filed and no further custodial interrogation is required in the matter. There is no allegation on the applicant of firing the gun shot. It is further submitted that after rejection of Second bail application of the applicant, the complainant along with material witnesses have been examined before the trial court and all of them i.e. PW/1 to PW/4 have turned hostile and did not support the story of the prosecution. It is further submitted that in view of outbreak of COVID 19, detention of the applicant in already congested prison may be detrimental. He is permanent resident of District Shivpuri (M.P.). Conclusion of trial is likely to take time and there is no likelihood of his absconsion, if released on bail. On these grounds, he may be released on bail.

Learned State counsel opposed the application on the ground that the applicant and other co-accused persons are seen in the CCTV footage in relation to commission of the said offence and TIP has been conducted in which applicant has been identified 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.

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

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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.

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 stand 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