

**HIGH COURT OF MADHYA PRADESH,**  
**BENCH AT GWALIOR**

**M.Cr.C. No.8757/2021**

( Brajesh Kushwah Vs. The State of Madhya Pradesh )

(1)

**Gwalior, dated : 01.03.2021**

Shri Anshu Gupta, Advocate for the applicants.

Shri Vinod Pathak, Panel Lawyer for the respondent/State.

Heard learned counsel for the parties.

Case diary perused.

The applicant has filed this first application under section 439 of the Cr.P.C. for grant of bail.

The applicant has been arrested on 28.01.2021 by Police Station Civil Lines, District Vidisha in connection with Crime No.45/202 registered in relation to the offences punishable under sections 379, 414 of the IPC.

Allegations against the applicant and other co-accused persons, in short, are that they committed theft of sand and were involved in its illegal transportation without paying any royalty. On the basis of aforesaid, crime has been registered against the applicant.

Learned counsel for the applicant submits that the applicant has been falsely implicated. He is in custody since 28.01.2021. It is submitted that in accordance with the Madhya Pradesh Sand (Mining, Transportation, Storage and Trading) Rule, 2019, fine has already been imposed by the Collector to the tune of Rs.25,000/- each upon the applicants and the same has been deposited by him. Moreover, offences under sections 379 and 414 of the IPC are not made out against the present applicant as there is no allegation of theft against

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them. Besides, the said offences under the IPC are punishable with 3 years' imprisonment or fine. It is further submitted that in view of COVID-19, outbreak detention of applicant in already congested prisons may be detrimental. The applicant has no criminal history. He is ready to abide by all the terms and conditions as may be imposed by this Court. With the aforesaid submissions, prayer for grant of bail is made.

Learned Panel Lawyer 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.

However, it would not be desirable to enter into the merits of the rival contentions at this juncture.

Considering the overall facts and circumstances of the case coupled with the fact that trial is not likely to conclude in near future and prolonged pre-trial detention being an anathema to the concept of liberty, this Court is inclined to extend the benefit of bail to the applicant.

Accordingly, 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.50,000/- (Rupees Fifty Thousand only)** with one local solvent surety in the like amount to the satisfaction of the trial Court/committal Court for his appearance on the dates given by the

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concerned Court. Applicant shall also furnish a written undertaking that he will abide by the terms and conditions of various circulars, as well as, orders 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. 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 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 applicant will not seek unnecessary adjournments during the trial; and
5. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.
- 6. If the applicant commit any offence while on bail, this order shall automatically stand cancelled without reference to the Court.**

A copy of this order be sent to the trial Court concerned for compliance, if possible, by the office of this Court.

Certified copy as per rules/directions.

**(S.A.Dharmadhikari)**  
**Judge**