

**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
MCRC No.17970 of 2024
(DEVENDRA RANA VS. STATE OF MADHYA PRADESH)**

Dated: 31-07-2024

Shri Prem Singh Bhadoriya – Advocate for the applicant.

Shri P.P.S. Vajeeta- Public Prosecutor for the State.

This **second repeat** application has been filed by applicant under Section 439 of Code of Criminal Procedure, 1973, for grant of bail in connection with Crime No.428 of 2023 registered at Police Station Kampoo, District Gwalior (M.P.) for offence punishable under Sections 302/34, 294 IPC. Applicant is in judicial custody since 24.08.2023. His first bail application was dismissed as withdrawn by this Court vide order dated 29.02.2024 passed in MCRC No.3475 of 2024.

As per the case of prosecution, police wireless vehicle FRV-10 received information that a person is killed at the house of Devendra Rana. When the officials reached the house of Devendra Rana, dead body of Rajendra Kushwaha was found. Accordingly, Station House Officer, Police Station Kampoo, District Gwalior and higher officials were informed. FSL team reached the spot at 12 in the noon. Ajmer (brother of deceased) and Babulal (father of the deceased) reported that Rajendra Kushwaha was preparing for competition. He was residing on rent in the house of Devendra Rana. Rajendra got friendly with Saroj Rana, relative of Devendra. On 22.08.2023 around 09 in the morning Saroj called Rajendra to her house. They went to the house of Saroj. Devendra Rana started abusing Rajendra in filthy language. Rajendra objected to abuses. Devendra assaulted Rajendra with knife. Rajendra tried to escape but Saroj Rana, Preeti Rana and Devendra Rana dragged him inside the house and Devendra again assaulted Rajendra with knife. Bhonda @ Aakash assaulted Rajendra with iron

dumbbell on his head. Rajendra died on spot. On such allegations, Police Station Kampoo, District Gwalior (M.P.) registered FIR at Crime No.428 of 2023 for offence punishable under Sections 302/34, 294 IPC. Dead body of Rajendra was forwarded for post-mortem examination. Medical Officer opined that Rajendra died due to shock and haemorrhage as a result of damage to right renal vessel coupled with head injury. Statements of witnesses were recorded. One knife was seized from the spot. Devendra Rana, Saroj Rana, Bhonda @ Akash and Preeti Rana were arrested. One dumbbell was recovered at the instance of Bhonda @ Akash. On completion of investigation, final report was submitted. Applicant is in custody since 24.08.2023. Trial is underway.

Learned counsel for the applicant, in addition to the grounds mentioned in the application, submits that the applicant has falsely been implicated in this matter. Learned counsel referring to the statements of witnesses Babulal Kushwah (PW-1), Virendra Kushwah (PW-2), Kuber Kushwah (PW-3), Ajmer Kushwah (PW-4), Vishal Baghel (PW-5), Mukesh Singh (PW-8) and Sureshchandra (PW-9) submits that none of the prosecution witnesses including father and brother of the deceased has supported the prosecution. 14 witnesses have been examined but there is no incriminating evidence implicating the applicant with the alleged offence. Applicant is aged 40 years. He is agriculturist by profession. He is sole bread earner and has family to look after. There is no likelihood of absconion leaving his family, home and profession. There is no likelihood of tampering with the remaining evidence by the applicant as only police officials relating to investigation are to be examined. Trial would take time to conclude. Applicant has already undergone custody for almost one year.

Per contra, learned counsel for the State opposes the bail application and prays for its rejection looking to the gravity of offence. Learned counsel submits that applicant is the main accused of alleged offence. Trial would conclude soon. Learned counsel cites criminal history of 16 cases against the applicant and prays

for rejection of application.

In reply, learned counsel for the applicant submits that applicant stands acquitted in 14 matters. Matter relating to Crime No.30 of 2023 registered at Police Station Cheenor for offence punishable under Sections 294, 323, 34, 506 of IPC and Crime No.87 of 2022 registered by police station Kampoo for the offence punishable under Section 13 of Public Gambling Act are pending against the applicant wherein the applicant was extended the benefit of bail. Applicant has never been convicted.

Heard learned counsel for the parties and perused the case diary.

Considering the arguments advanced by both the parties and overall circumstances of the case, but without commenting on merits of the case, this Court is inclined to release the applicant on bail, however, with certain stringent conditions in view of his criminal antecedents. Thus, the application is allowed.

Accordingly, it is directed that applicant -**Devendra Rana** shall be released on bail in relation to Crime No.428 of 2023 registered at Police Station Kampoo, District Gwalior (M.P.) for offence punishable under Sections 302/34, 294 IPC, upon furnishing cash security of **Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties of Rs.1,00,000/- each** to the satisfaction of the trial Court concerned for compliance with the following conditions:- **(For convenience of understanding by accused and surety, the conditions of bail are also reproduced in Hindi as under) :-**

(1) Applicant shall remain present on every date of hearing as may be directed by the concerned court;

(1) आवेदक संबंधित न्यायालय के निर्देशानुसार सुनवाई की प्रत्येक तिथि पर उपस्थित रहेगा।

(2) Applicant shall not commit or get involved in any offence of similar nature;

(2) आवेदक समान प्रकृति का कोई अपराध नहीं करेगा या उसमें सम्मिलित नहीं होगा।

(3) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them/him/her from disclosing such facts to the Court or

to the police officer;

(3) आवेदक प्रकरण के तथ्यों से परिचित किसी व्यक्ति को प्रत्यक्ष या अप्रत्यक्ष रूप से प्रलोभन, धमकी या वचन नहीं देगा, जिससे ऐसा व्यक्ति ऐसे तथ्यों को न्यायालय या पुलिस अधिकारी को प्रकट करने से निवारित हो।

(4) Applicant shall not directly or indirectly attempt to tamper with the evidence or allure, pressurize or threaten the witness;

(4) आवेदक प्रत्यक्ष या अप्रत्यक्ष रूप से साक्ष्य के साथ छेड़छाड़ करने का या साक्षी या साक्षियों को बहलाने-फुसलाने, दबाव डालने या धमकाने का प्रयास नहीं करेगा।

(5) During trial, the applicant shall ensure due compliance of provisions of Section 309 of Cr.P.C./346 of Bhartiya Nagrik Suraksha Sanhita, 2023 regarding examination of witnesses in attendance;

(5) विचारण के दौरान, उपस्थित गवाहों से परीक्षण के संबंध में आवेदक धारा 309 दं.प्र. सं/346 भारतीय नागरिक सुरक्षा संहिता, 2023 के प्रावधानों का उचित अनुपालन सुनिश्चित करेगा।

(6) The applicant shall mark his presence on every Saturday before the SHO, Police Station Kampoo, District Gwalior till the conclusion of trial.

This order shall be effective till the end of trial. However, in case of breach of any of the precondition of bail, the Trial Court may consider on merit cancellation of bail without any impediment of this order.

The trial Court shall get these conditions reproduced on the personal bond by the accused and on surety bond by the surety concerned. If any of them is unable to write, the scribe shall certify that he had explained the conditions to the concerned accused or the surety.

Let a copy of this order be sent to SHO concerned for necessary information and compliance.

C.C. as per rules.

**(SANJEEV S KALGAONKAR)
JUDGE**