

High Court of Madhya Pradesh, Jabalpur
Bench at Indore

Miscellaneous Criminal Case No.50803/2018

(Manish @ Gopal s/o Anand Bordiya

Versus

The State of Madhya Pradesh)

Indore, Dated 18.12.2018

Shri Vivek Singh, learned counsel for the applicant.

Shri Vishal Sanothiya, learned Public Prosecutor for the non-applicant / State of Madhya Pradesh.

They are heard. Perused the case diary.

This first application under Section 439 of Criminal Procedure Code, 1973 has been filed by applicant Manish @ Gopal s/o Anand Bordiya, who is implicated in connection with Crime No.633/2017 registered at Police Station Madhav Nagar, District Ujjain (MP) for offence punishable under Sections 394, 397 and 120-B of the Indian Penal Code, 1860.

The applicant is in custody since 23.10.2017.

As per prosecution story, complainant Dipak s/o Ashok Kumar Bhavsar (PW-3) has lodged First Information Report that on 16.06.2017 he and his colleague Dipal Bisore (PW-2) on his motorcycle along with cash amount of Rs.5,63,155/- and details of stock proceeded from Prakash Petrol Pump Koyla Phatak to house (situated at Azad Nagar) of Sanjay Bhargava, owner of Prakash Auto Sales & Service. He was driving motorcycle and Dipak Basore was pillion rider holding

white bag containing cash amount. On the way at Azad Nagar, two persons looted the aforesaid cash amount by throwing chilly powder on his face.

Learned counsel for the applicant has submitted that the applicant is a young boy of 19 years of age . He is having no criminal antecedents. The applicant is not named in the FIR. However, in Test Identification Parade, complainant Dipak Bhavsar and Dipak Basore identified the present applicant as one of the culprit. Both the witnesses have been examined before the trial Court on 19.09.2018 in which they have not stated anything against the present applicant. During the Court statement, they categorically stated that the present applicant was not present at the time of incident. It is further submitted that although an amount of Rs.1,15,000/- has been recovered from the present applicant, however, it is not identifiable article and the seizure witnesses have also turned hostile. The applicant is in custody since 23.10.2017. Conclusion of the trial will take sufficiently long time. Under these circumstance, learned counsel for the applicant prays for grant of bail to the applicant.

Learned Public Prosecutor for the non-applicant / State of Madhya Pradesh submits that no sufficient ground is made out for releasing the applicant on bail; hence the application filed by the applicant be dismissed.

Considering the facts and circumstances of the case and the arguments advanced by learned counsel for the parties, but without commenting on the merits of the case, the application filed by the applicant is allowed. The applicant is directed to be released on bail upon his furnishing a personal bond in the sum of **Rs.75,000/- (Rupees seventy five Thousand only)** with two solvent sureties bonds of **Rs.37,500/- (rupees thirty seven thousand five hundred) each** to the satisfaction of trial Court, for his regular appearance before the trial Court during trial with a condition that he shall remain present before the Court concerned during trial and shall also abide by the conditions enumerated under Section 437 (3) of Criminal Procedure Code, 1973.

This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Certified copy, as per rules.

(S.K. Awasthi)
Judge