

THE HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE

M.Cr.C. No.26802 of 2020
(Anil vs. State of MP)

Indore, dated :15.09.2020

Shri Siddharth Jain, learned counsel for the applicant is present in person through Video Conferencing.

Shri Prabal Jain, learned Public Prosecutor for the non-applicant – State is present in person through Video Conferencing.

Heard. Perused the case diary.

This is first application under Section 439 of Cr.P.C. for grant of bail. Applicant – Anil S/o Kalu Bheel is implicated in Crime No.76/2019 registered at Police Station – Sardarpur, District Dhar for the offence punishable under Section 394 of IPC along with Sections 25(a) and 27 of Arms Act and he is in custody since 21.05.2019.

As per prosecution story, 14 persons including present applicant had committed loot.

Learned counsel for the applicant submits that incident had occurred on 27.02.2019 and the applicant was arrested only on 21.05.2019. He further submits that test identification parade has been carried out and also submits that apart from memorandum of co-accused, there is no other supporting evidence available against the applicant and that no seizure has been made from him.

Per contra, learned Public Prosecutor for the State has opposed the bail application who has read out the memorandum of applicant in which he has simply stated that his share in terms

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of cash which he received as part of loot has been spent by him. He also submits that apart from present case, there are three criminal cases registered against the applicant which are Crime No.08/2019 under Sections 395 and 397 of IPC along with 25 of Arms Act, Crime No.431/2018 under Sections 394 and 397 of IPC and Crime No.59/2019 under Sections 394, 395 and 397 of IPC along with Section 25 of Arms Act.

Considered.

As far as present matter is concerned, complainant in his FIR has stated that he has seen the accused persons and that he would be able to identify them. However, despite aforesaid, no test identification parade was carried out in respect of applicant and charge-sheet has been filed in the matter against applicant. Further, there is substance in the submissions made by the counsel for the applicant that there is no supporting evidence against the applicant apart from the memorandum statements of co-accused and memorandum statements of applicant also. No discovery of fact has been obtained by the prosecution agency pursuant to the aforesaid memorandum statements.

On due consideration of the aforesaid, without commenting upon the merits of the case, this bail application is allowed and it is directed that applicant – **Anil** shall be released on bail subject to his furnishing a personal bond in the sum of **Rs.50,000/- (Rupees Fifty thousand only)** with **one local surety** to the satisfaction of the concerned Trial Court/Committal Court for his regular appearance before the Trial Court/Committal Court on all

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dates of hearing as may be fixed in this behalf by the Court concerned during trial. It is also directed that the applicant shall abide by all the conditions enumerated under Section 437(3) of the Cr.P.C. It is made clear that after being released on bail, applicant shall not indulge in any like-wise activities in future and if found to have breached any of the aforesaid condition, the order granting bail shall stand cancelled without reference to this Court.

A copy of this order be sent to the Court concerned for compliance.

M.Cr.C. No.26802/2020 is allowed and stands disposed of.

Certified copy as per rules.

(Shailendra Shukla)
Judge

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