

HIGH COURT OF MADHYA PRADESH : BENCH AT INDORE
M.Cr.C. No.9132 of 2020

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Jagdish and another Vs. State of M.P.

Indore, Dated:- 20/03/2020

Shri O. P. Solanki, learned Counsel for the petitioners—Jagdish and Rustom.

Shri Lokesh Bhargav, learned Public Prosecutor for the respondent/State.

Heard with the aid of case diary.

1. This is the first bail application under Section 439 of Cr.P.C. filed by petitioners—Jagdish and Rustom in Crime No.281/2019 registered at Police Station—Pachore, District—Rajgarh under Sections 380 and 457 of IPC.

2. Learned Counsel for the petitioners has claimed parity with co-accused persons, who have been granted bail by this Court vide order dated 12.02.2020 passed in M.Cr.C. No.6263 of 2020. Order dated 12.02.2020 reads thus:-

“1. This is the first bail application under Section 439 of Cr.P.C. filed by petitioners—Rajaram, Manfool and Mahendra in Crime No.281/2019 registered at Police Station—Pachore, District—Rajgarh under Sections 380 and 457 of IPC.

2. According to the prosecution case, present FIR was lodged by Krishnavallabh Pandey regarding theft of his Hero Honda motorcycle bearing No.MP-39-MP-8842 on 10.07.2019 stating that some unknown miscreants have stolen his motorcycle from his house on 04.07.2019. The matter was pending for investigation before the police.

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During investigation on 11.07.2019 police cordoned some suspects, but they managed to escape leaving behind two motorcycles. They were seized by the police under Sections 41(1) and 102 of Cr.P.C. One of them was found stolen property of present crime.

3. Matter was still remained pending to trace the culprits. The present petitioners were arrested by the police in some other crime on 08.08.2019. On interrogation, they admitted the crime committed by them in the present case and further admitted that they are the persons, who left the motorcycles behind on 11.07.2019, therefore, the police impleaded them in the present case and arrested them in this case also.

4. Objection of the prosecution is that the petitioners have criminal record. Earlier Crime No.265/2019 under Sections 457 and 380 IPC in respect of theft of a mobile phone, Crime No.127/2019 under Sections 457 and 380 IPC and Crime No.170/2019 under Sections 457 and 380 IPC were registered in respect of theft of some silver ornaments at Police Stations – Pachore, Khujner and Chhapikheda, respectively. They are habitual criminals, therefore, they be not granted bail.

5. Having regard to the peculiar facts of the present case and the basis upon which the petitioners have been impleaded in the present case, I deem it appropriate to allow the bail application, therefore, without commenting on merits of the case, the application is allowed.

6. It is directed that the petitioners **Rajaram S/o Biram Bhil, Manfool S/o Ramprasad** and **Mahendra S/o Biram Bhil** be released from custody on their furnishing a personal bond in the sum of

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Rs.20,000/- (Rupees Twenty Thousand Only) each with separate sureties to the satisfaction of the Trial Court for their appearance before the Trial Court as and when required further subject to the following conditions :-

- (I) The petitioners shall co-operate with the trial and shall not seek unnecessary adjournments on frivolous grounds to protract the trial;
- (ii) The petitioners shall not directly or indirectly allure or make any inducement, threat or promise to the prosecution witnesses, so as to dissuade him from disclosing truth before the Court;
- (iii) The petitioners shall not commit any offence or involve in any criminal activity;
- (iv) In case of their involvement in any other criminal activity or breach of any other aforesaid conditions, the bail granted in this case may also be cancelled.

3. Learned Public Prosecutor has opposed the bail application but has not controverted the fact of parity with co-accused persons.

4. The case of the petitioners—Jagdish S/o Gajraj Bhil and Rustom S/o Ramprasad is identical to the case of co-accused—Rajaram, Manfool and Mahendra, therefore, present petition is allowed and disposed of on the same terms and conditions.

(Virender Singh)
Judge

Pankaj