

THE HIGH COURT OF MADHYA PRADESH

M.Cr.C. No.25280/2021

(Gabbar Singh @ Gabbu Vs. State of M.P.)

Indore, Dated: 18/06/2021

Heard through video conferencing.

Shri Romil Malpani, learned counsel for the applicant.

Shri Siddharth Jain, learned Panel Lawyer for the respondent / State of Madhya Pradesh.

They are heard. Perused the case diary / challan papers.

This is the **first** application under Section 439 of Criminal Procedure Code, 1973, as he / she is implicated in connection with Crime No.61/2021 registered at Police Station Sardarpur, District Dhar (MP) for offence punishable under Sections 307, 294 and 34 of the Indian Penal Code, 1860. The applicant is in custody since 07/02/2021.

Allegation against the applicant is of causing gunshot injury to the injured.

Counsel for the applicant has submitted that charge sheet has already been filed, the applicant is in jail since 07/02/2021 and as such he has spent more than four months in jail and the injured has also been discharged from the hospital within five days time only. It is further submitted that this is the first offence of the applicant and the incident has taken place on account of a land dispute between the parties and the final conclusion of the trial is likely to take sufficient long time. Hence, it is submitted that the bail application be allowed and he be released on bail.

Counsel for the respondent / State, on the other hand has opposed the prayer and it is submitted that no case for grant of bail is made out, however, it is not denied that there are no criminal antecedents of the applicant.

Having considered the rival submissions, perusal of the case diary and the period of custody of the applicant and the fact that the injured was discharged within five days time and the final conclusion of the trial is likely to take sufficient long time due to fresh spread of COVID-19, in the considered opinion of this Court, the applicant's application deserves to be allowed.

Accordingly, without commenting on the merits of the case, the application filed by the applicant is allowed subject to deposit a sum of **Rs.20,000/- (Rupees Twenty Thousand only)**, and the said amount shall be subject to the final outcome of the case by the trial Court.

It is further directed that upon **applicant's** depositing a sum of **Rs.20,000/-** in a fixed deposit in a nationalized bank and producing the receipt/certificate of the same before the concerned trial Court, he shall be released on bail on his furnishing a bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand only)** with one surety bond of the same amount to the satisfaction of the trial Court, to appear before the trial Court on the dates given by the Court. The deposit receipt/certificate so produced by the applicant shall be endorsed by the learned Judge of the lower Court to be, *'furnished towards the bail of the applicant and shall be subject to the final*

decision of the case by the trial Court'.

It is made clear that if the applicant is again found to be involved in any other offence during the trial, this order shall stand cancelled automatically without reference to the Court and the police will be at liberty to arrest the applicant in the present case also.

It is also directed that the applicant will abide by all the conditions enumerated under Section 437(3) of the Cr.P.C.

Certified copy as per rules.

(Subodh Abhyankar)
Judge

krjoshi