

**HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE**

**M.Cr.C. No.27320/2021**

**Ajay Kumar Tiwari v/s The State of Madhya Pradesh  
Indore, dated 03.08.2021**

Heard through video conferencing.

Shri Gaurav Shrivastava, learned counsel for the applicant.

Shri Vikas Jaiswal, learned Panel Lawyer for the respondent / State.

With the consent, finally heard.

This is the third application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail in connection with Crime No.239/2019 registered at Police Station – Barod, District – Agar Malwa for the offences registered under Sections 406, 409 and 120-B of the Indian Penal Code. The applicant is in custody since 16.07.2020. First application, M.Cr.C. No.25186/2020 was dismissed on merits. Thereafter, second application, M.Cr.C. No.38129/2020 was also dismissed because there was no change in circumstances.

Learned counsel for the applicant submits that thereafter by order dated 25.02.2021, co-accused – Sandeep was enlarged on bail. In fact applicant lodged a complaint against Sandeep in Police Station – Budhar, District – Shahdole. There was no allegation against the applicant for committing offence punishable under Section 420 of the IPC. This Court erroneously opined regarding Section 420 of the IPC in order dated 24.08.2020. The allegation under Section 409 was

dropped and in lieu thereof Section 406 of the IPC was attracted by Court below by order dated 27.07.2021. The matter is remitted back to the Judicial Magistrate First Class to decide the matter. The sentence for committing the offences alleged is three years. The applicant is in custody since 16.07.2020 and has almost completed one year. The challan has been filed. The conclusion of trial in this pandemic era will take time. The applicant is the first offender. Hence, he may be enlarged on bail.

The prayer is opposed by learned Panel Lawyer for the respondent / State. However, he did not dispute that (i) the applicant is the first offender (ii) challan has been filed (iii) matter is triable by Judicial Magistrate First Class.

Considering the nature of accusation and the period of custody and the fact that conclusion of trial in this pandemic era will take time, I deem it proper to enlarge the applicant on bail. Accordingly, the bail application is allowed.

The applicant is directed to be enlarged on bail on his furnishing personal bond in the sum of **Rs.35,000/- (Rupees Thirty Five Thousand Only)** with one solvent surety of the like amount to the satisfaction of the trial Court for his appearance as and when directed. He shall abide by the conditions enumerated under section 437(3) of the Cr.P.C.

The applicant will attend each hearing of his trial before the trial Court out of which this bail arises. Any default in the attendance in Court would result in cancellation of the bail

granted by this Court.

With the aforesaid, the application stands disposed of.

Certified copy, as per Rules.

(SUJOY PAUL)  
JUDGE

Ravi

