

HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE

M CR C No. 36631 / 2021

NIRMALABAI W/O KANHAIYALAL Vs. STATE OF MP

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INDORE, Dated : 03/08/2021

Heard through video conferencing.

Mr. Nilesh Dave, learned counsel for the applicant.

Mr. Jayesh Vyas, learned PL for the respondent – State.

This first application u/S. 438 of the Code of Criminal Procedure, 1973 is filed by applicant Nirmalabai w/o Kanhaiyalal who is apprehending her arrest in connection with Crime No. 04/2021, registered at P.S. Barud, Distt. Khargone (MP) for commission of offence punishable u/S. 379 of the Indian Penal Code, 1860 read with Sec. 4 and 21 of *Khan and Khaniz Adhinyam* and u/S. 3 and 181 of the Motor Vehicles Act.

As per prosecution story, present applicant Nirmalabai is the registered owner of the offending vehicle Tractor-Trolley bearing Registration No. MP10 AA 5207 and Mining Inspector has seized the aforesaid vehicle from co-accused Rajesh Patil (Driver) for the offence of illegal excavation and transportation of Sand and present applicant has been implicated in this offence only on the basis of the fact that she being the registered owner of the aforesaid vehicle.

Learned counsel for the applicant submits that present applicant is a 40 years household lady. She is innocent and has been falsely implicated in this offence. There is no evidence against her. Main accused Rajesh Patil has committed the said offence and it is not within the

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knowledge of the applicant. She was not present on the spot and nothing has been recovered from her possession. She is permanent resident of District Khargone. Hence, learned counsel for the applicant prays for grant of anticipatory bail to the applicant.

Per contra, learned counsel for the respondent – State opposes the bail application and prays for its rejection by contending that on the basis of allegation and material available on record, no case is made out for grant of anticipatory bail.

Considering the nature of allegation and facts and circumstances of the case and also the fact that applicant was not present on the spot and nothing has been seized from her possession, she is 40 years household lady, final conclusion of trial is likely to take sufficient long time, present applicant has no criminal past, without commenting upon the merits, I deem it proper to allow the present application. Accordingly, the present application is allowed.

It is directed that in the event of arrest of applicant – Nirmalabai w/o Kanhaiyalal, she be enlarged on bail on her furnishing personal bond of Rs.1.00 lacs (Rs. One lac only) with one solvent surety in the like amount to the satisfaction of the arresting authority or trial Court.

This order will remain operative subject to compliance of the following conditions by the applicant :-

1. The applicant will comply with all the terms and conditions of the bond executed

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by her;

2. The applicant will cooperate in the investigation/trial, as the case may be;

3. The applicant will not indulge herself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;

4. The applicant will not seek unnecessary adjournments during the trial; and

5. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

A copy of this order be sent to the Court and police station concerned for necessary compliance.

Certified copy as per rules.

(ANIL VERMA)
J U D G E

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