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HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE

[S. B. : HON'BLE MR. JUSTICE VIVEK RUSIA]

M. Cr. C. No.44430/2021

Pushparaj S/o Modsingh Bheel,
Aged – 21 years, Occupation – Student,
R/o – Village Kalyanpura, Teshil – Susner,
District Shajapur (M.P.)

- Applicant

V e r s u s

State of Madhya Pradesh,
Through Police Station Soyatkala,
District Shajapur (M.P.)

- Respondent

Shri Nilesh Patel, learned counsel for the applicant.

Shri Ranjeet Sen, learned Government Advocate for the
respondent / State.

Indore, dated 03/12/2021

This is the first application filed under Section 439 of Cr.P.C. by the applicant, who is in custody since 05/12/2020 in connection with Crime No.169/2019 registered at Police Station Soyatkala, District Shajapur (M.P.) for the offence punishable under Section 302 and 34 of the Indian Penal Code, 1860.

As per prosecution case, on 29/09/2019 a *Dehati Nalishi* was registered *vide* Crime No.0/2019 under Section 302 of the IPC at the instance of Sheikh Imran. According to him he is having a scrap show near Kanthal river. His brother used to sleep in the night in the said shop. In the morning when he reached in the shop he found dead body of his brother Sheikh Ayyub with an injury on his neck and ear. He called the neighbor and lodged a report. FIR was registered against unknown person at Crime No.189/2019. Thereafter, police has

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arrested Lakhan S/o Kaluram, Pushparaj S/o Modsingh, Vikram S/o Devilal and Nitesh @ Tanu S/o Mohanlal. Police has recorded the statements of local villagers specially Rajkumari and brother of the Rajkumari. Rajkumar has developed a relationship with Sheikh Ayyub and she as well as brother of the deceased has an apprehension that because of this applicant along with others committed murder of Sheikh Ayyub.

Learned counsel for the applicant submitted that this applicant was arrested after more than 01 year of registration of the FIR. The recovery of blood stain clothes and axe is doubtful. There is no FSL report confirming the blood of the deceased. Applicant is a youth of 20 years of age. He has unnecessarily been made an accused in the case of blind murder. He has no enmity with the deceased. Even the Rajkumar has not taken his name. He, therefore, prays for grant of bail to the applicant.

On the other hand, learned counsel appearing for the respondent/State opposes the prayer for grant of bail.

In view of the aforesaid facts and circumstances of the case and looking to the period of custody and the evidence collected against the applicant, without further commenting anything on the merits of the case, it would be appropriate to enlarge the applicant on bail.

Accordingly, this application is allowed and the applicant is directed to be released on bail upon his furnishing personal bond in the sum of **Rs.40,000/- (Rupees Forty Thousand Only)** with one

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solvent surety in the like amount to the satisfaction of the trial Court for his regular appearance before the trial Court during the trial as and when required and shall also abide by the conditions enumerated under Section 437(3) Cr.P.C.

Before releasing the applicant from custody the jail authorities are directed to medically examine him in order to rule out the possibility of COVID-19 infections and shall comply with the direction given by the Hon'ble Apex Court in Writ Petition No.01/2020.

Certified copy as per rules.

(VIVEK RUSIA)
J U D G E

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