

THE HIGH COURT OF MADHYA PRADESH
BENCH AT INDORE
(S.B.: HON'BLE Mr. JUSTICE VIVEK RUSIA)

M.Cr.C. No.45219/2021

Applicant: - Prahlad S/o Bhawarlalji, Jaati Gurjar,
Age-28 years Occupation-Nil
R/o Gram Morda, Tehsil Namli,
District- Ratlam (M.P.)

Versus

Respondent: - State of M.P. through P.S. Barawada,
District-Ratlam (M.P.)

For Applicant	:	Mr. Aditya Choudhary,
For Respondent(s)	:	Ms. Mamta Shandilya, G.A.

ORDER

Indore: Date: 08.10.2021 :

This is first bail application filed by the applicant under Section 439 of Cr.P.C.,1973 for grant of bail in connection with Crime No.177/2021 registered at police station Barawada for the offence punishable under 323, 325, 294, 506 and 307 of the IPC. The applicant is in custody since 04/08/2021.

2. As per the prosecution case, on 27.06.2021 police Haatpipaliya received information from Govt. Hospital Mandsaur about admission of Manohar Singh in an injured condition for treatment. C.L. Haada, Assistant Sub-Inspector reached to the hospital and recorded the statement of Manohar Singh and according to the injured, on 25.06.2021 near about 9 he was sitting in his agriculture field and operating the mobile. All of a sudden Udaylal (*saala*) and Basant (co-brother) came with a pipe and stick in their hands and started abusing him. Udaylal gave a blow by pipe on his head thereafter Basant Gurjan assaulted him by means of stick. Two persons also came there with the sticks, and they also assaulted him thereafter, Pooralal came there and the accused persons left the place by

threatening him. Initially The FIR was registered under Sections 323, 294, 506 and 34 of the Indian Penal Code and on the basis of the X-Ray report given by the Mewad Hospital fracture was found on both the legs and left hand. Hence offence under Section 325 of the IPC was added and thereafter on 29.07.2021 query report was obtained and Section 307 of the IPC was also added in the FIR .

3. Learned counsel for the applicant submits that this applicant has been added on the basis of supplementary memo statement of Udaylal recorded under Section 27 of the Indian Evidence Act. No TIP has been conducted so far. The applicant has no criminal past. As per the doctor's query report there is no definite opinion that injuries were fatal in nature. There is a specific allegation of causing injuries by iron rod on head by Udaylal. No further custodial interrogation of the applicant is required in this matter. Hence applicant may kindly enlarge on bail.

4. Learned Govt. Advocate for the respondent/State opposes the bail application by submitting that the presence of applicant is *prima facie* established on the spot by the CDR and mobile location. Investigation is pending hence the bail application is liable to be dismissed.

5. As per the initial version in the FIR there is a specific allegation of causing an injury by Udaylal and Basant Gurjan. Both are close relative of the injured. There are general allegations against two unknown persons about the assault. The applicant has no criminal past. He has been implicated in this case on the basis of 27 memo statement of Udaylal.

6. Considering the facts and circumstances of the case, without commenting on the merits of the case, the application filed by the applicant is allowed. The **applicant-Prahlad**, is directed to be released on bail on his furnishing a personal bond in the sum of

Rs.40,000/- (Rupees Forty Thousand Only) with one solvent surety of the like amount to the satisfaction of the trial Court for his regular appearance before the trial Court during the trial with a condition that he shall remain present before the Court concerned during the trial and shall also abide by the conditions enumerated under Section 437(3) Cr.P.C. It is made clear that in case of bail jump this order shall become ineffective.

Before releasing the applicant from the custody the trial Court shall verify the criminal antecedent of the applicant and jail authorities are also 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.1/2020.

Certified copy as per rules.

**(VIVEK RUSIA)
JUDGE**

Ajit