

HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE

M. Cr. C. No.47026/2021
(Gulsher @ Gullu Vs. State of M. P.)

- 1 -

Indore, dated 23/09/2021

Shri M. A. Mansoori, learned counsel for the applicant.

Shri Sudhanshu V. Vyas, learned Panel Lawyer for the respondent / State.

This is the fourth bail application under Section 439 of Cr.P.C on behalf of the applicant. Its a case of bail jump. The applicant is in jail since 06/09/2021 in connection with Crime No.198/2017 registered at Police Station Nagda, District Ujjain for the offence punishable under sections 147, 148, 341, 307, 323 and 506 of the Indian Penal Code, 1860.

Learned counsel for the applicant submits that present case is a case of bail jump. The applicant was granted bail by this Court by order dated 26/06/2019 passed in M.Cr.C.No.24339/2019. Thereafter, applicant was regularly appearing before the trial Court on the dates of hearing. However, he could not mark his appearance before the trial Court on 05/03/2020. As a result his bail bonds were cancelled and arrest warrant was issued against him and he was again arrested on 06/09/2021 and is in confined in jail since then. Learned counsel further submits that the complainant has been examined before the trial Court and he has turned hostile. Applicant is the sole bread earner and due to his jail incarceration, the family is in penury. Looking to Covid-19, the regular proceedings are not taking place as a result there is possibility of undue and prolonged delay of trial cannot be

HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE

M. Cr. C. No.47026/2021
(Gulsher @ Gullu Vs. State of M. P.)

- 2 -

ruled out. Under such circumstances, the applicant deserves to be enlarged on bail on such terms and conditions, Hon'ble Court deems fit and proper.

Per contra, learned Public Prosecutor for the respondent/State opposes the bail application supporting the order impugned.

Upon hearing learned counsel for the parties but, without touching on merits of the contentions so advanced, regard being had to the fact that the applicant is in jail since 06/09/2021, and it is a case of bail jump, applicant is not required for further custodial interrogation and due to COVID-19 pandemic, the possibility of delay in conclusion of trial cannot be ruled out. Hence, he is held entitled for enlargement on bail.

Consequently, the application of the applicant filed under Section 439 of the Cr.P.C., is hereby allowed. It is directed that the applicant be released on bail, on furnishing personal bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand Only)** with one solvent surety in the like amount to the satisfaction of the trial Court, on the condition that he shall remain present before the Court concerned during trial and also comply with the conditions enumerated under Section 437(3) of Cr.P.C.. It is further directed that on each and every date fixed, applicant shall appear before the Court below during trial for its early conclusion with following further conditions:

- (i) the applicant shall abide by the terms and

HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE

M. Cr. C. No.47026/2021
(Gulsher @ Gullu Vs. State of M. P.)

- 3 -

conditions of various circulars and orders issued by the Government of India and the State Government as well as the local administration from to time in the matter of maintaining social distancing, physical distancing, hygiene, etc., to avoid proliferation of (COVID-19);

(ii) the applicant is also directed to appear before the concerned Police Station on 2nd and 4th Saturday every month between 10.00 a.m. to 12.00 p.m.

(iii) the concerned jail authorities are directed that before releasing the applicant, the medical examination of the applicant be conducted through the jail doctor and if it is *prima facie* found that he is having any symptoms of COVID-19, then the consequential follow up action required be undertaken immediately. If not, the applicant shall be released on bail in terms of the conditions imposed in this order;

(iv) In the event of violation of any of the terms and conditions of the order by the applicant, the prosecution is at liberty to seek cancellation of the bail granted to the applicant.

Learned Panel Lawyer is directed to send an e-copy of this order to all the concerned including the concerned Station House Officer of the police station for information and necessary action.

E-certified copy as per rules.

(ROHIT ARYA)
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