The High Court Of Madhya Pradesh

MCRC-8956-2021

(LALIT Vs THE STATE OF MADHYA PRADESH)

Indore, Dated : <u>**03-08-2021**</u>

Heard through Video Conferencing.

Shri S.K.Vyas, learned senior counsel with Ms. Sonali Goyal, learned counsel for the applicant.

Shri Amit Singh Sisodia, learned Government Advocate for the respondent/State.

This is the fifth bail application under Section 439 Cr.P.C. The applicant is in custody since 12.07.2019 in connection with Crime No.337/2019 registered at Police Station Bag, District Dhar for the offences punishable under Sections 420, 467, 468, 471, 190, 120-B of IPC. The first application was dismissed on merits on 21.08.2020. Second, third and fourth applications were disposed of by granting temporary bail to the applicant vide orders dated 24.09.2020, 06.10.2020 and 15.10.2020 respectively.

As per prosecution story, two insurance policies dated 03.12.2018 and 04.12.2018 in the name of one Kanaji were found in possession of the present applicant. Those policies were intended to be

used for false claims manipulating the date of death of late Kanaji and accordingly case has been registered. Infact the chain of allegations in respect of other accused persons alongwith the applicant are to the following effect (i) that one Ajay Vyas styling himself as a Journalist lodged a complaint interalia alleging that one Prakash alongwith co-accused Mahesh and Laxman Sancha with a common intention have committed forgery for the purpose of cheating in matter of procurement of insurance policies in the name of Kanaji, father of the co-accused Mahesh, as if he was alive with an ill intention of making death claim from Insurance Company.

Shri S.K.Vyas, learned senior counsel for the applicant submits that applicant is innocent and he has been falsely implicated in the offence. Except the seizure of two policies, there is no other material much less incriminating material collected to establish the complexity of the applicant in the instant crime. It is further submitted that applicant has already suffered jail incarceration since 12.07.2019. As investigation is complete, he is not required for custodial interrogation. He has no criminal antecedents. On merits it is submitted that assuming these policies were recovered from the applicant, although denied that these policies have never been misused or encashed for

monetary gains, even as per prosecution story. Looking to the COVID-19 situation, trial is not likely to conclude early in the near future. Hence, the applicant may be enlarged on bail on such terms and conditions as this Court deems fit and proper.

Per contra, learned Government Advocate supports the order impugned and opposes the bail application. He submits that infact the case has a chequered history. The co-accused Prakash, Mahesh, Laxman and others including the applicant infact colluded to achieve nefarious goals for collateral purposes of unjust enrichment by indulging into the activities of forging the documents with common intention of cheating with the Insurance Companies and Banks in the name of dead person. It is submitted that the entire pandora box of misdeeds of co-accused persons once opened and when was investigated, the instant case was registered. Hence, complexity of the applicant cannot be ruled out in the instance case.

Upon hearing counsel for the parties, in the obtaining facts and circumstances on record, but without touching merits of the contentions so advanced, regard being had to the fact that the applicant is in jail since 12.07.2019, he is not required for custodial interrogation, there is no criminal antecedents and due to Covid-19

pandemic, the possibility of delay in conclusion of trial cannot be ruled out. Hence, applicant is held entitled for enlargement on bail.

Consequently, the application of the applicant filed under Section 439 of the Criminal Procedure Code, 1973 is hereby allowed. It is directed that the applicant be released on bail on furnishing personal bond in the sum of **Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only)** with one solvent surety in the like amount to the satisfaction of the learned Trial Court and 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 Criminal Procedure Code, 1973 with following further conditions:

(i) **the applicant shall mark his attendance before the concerned Police Station on 2nd and 4th Saturday of every month between 10.00 AM to 12.00 Noon.**

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

(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 or any further test required be undertaken immediately. If not, the applicant will be released on

bail in terms of the conditions imposed in this order;

(iv)   violation of conditions, State is free to apply for cancellation of bail.

(v)   in future, if the applicant is found to be involved in such nature of cases or any other similar criminal cases or misuse the bail granted by this Court, this bail order shall stand cancelled automatically.

Observations made on facts touching merits of the case are only for the purpose of deciding the bail application and shall not have any bearing on the pending trial.

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.

Registry is directed to send an e-copy of this order to the Court concerned for necessary compliance.

E-certified copy as per rules.

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(ROHIT ARYA)
JUDGE

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RJ