

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE ANIL VERMA

ON THE 12th OF DECEMBER, 2022

MISC. CRIMINAL CASE No. 54135 of 2022

BETWEEN:-

**KALIYA @ KALU SINGH S/O SHREE
HIRALAL KANJAR, AGED ABOUT 22
YEARS, OCCUPATION: LABOUR,
R/O GRAM TITARVASA, P.S.
JHALAWAD DISTRICT JHALAWAD
(RAJASTHAN)**

.....APPLICANT

(MS. MEHUL SHUKLA – ADVOCATE FOR APPLICANT)

AND

**THE STATE OF MADHYA PRADESH
STATION HOUSE OFFICER
THROUGH POLICE STATION AGAR
DISTRICT AGAR MALWA (MADHYA
PRADESH)**

.....RESPONDENT

(SHRI BHUVAN DESHMUKH – GOVT. ADVOCATE)

*This application coming on for hearing this day, the court passed
the following:*

ORDER

This is the second repeat bail application under Section 439 of the Code of Criminal Procedure, 1973 filed on behalf of the applicant for grant of bail. His earlier application was dismissed as withdrawn *vide* order dated 20/07/2022 passed in M.Cr.C.No.33127/2022. The applicant is in custody since 03/03/2022 in connection with Crime No.52/2022 registered at Police Station – Agar, District Agar Malwa (M.P.) for

commission of offence punishable under Section 457 and 380 of the Indian Penal Code, 1860.

As per prosecution story, complainant owns a Jewellery shop named Nakoda. On 29/01/2022 in the morning, his son Pawan Kumar had received a call that locks of his shop are broken. When he reached at his shop, he found that 45 Kg. Of silver jewellery, 80 grams gold jewellery and Rs.90,000/- cash from drawer are stolen from the shop. Initially an FIR was registered against the unknown persons (who were seen in CCTV cameras of the shop) at PS Agar under Section 457 and 380 of the IPC. After investigation present applicants have been implicated in the crime.

Learned counsel for the applicant submits that both the applicant is an innocent person and he has been falsely implicated in this offence. He is in custody since 03/03/2022. Applicant is a young person of 22 years of age. Investigation is over and charge sheet has been filed. Nothing has been recovered from his possession. Offence is triable by Judicial Magistrate First Class. Applicant is the permanent residents of District Jhalawad (Rajasthan) and final conclusion of the trial is likely to take sufficient long time. Under the above circumstances, prayer for grant of bail may be considered on such terms and conditions, as this Court deems fit and proper.

Per contra, learned counsel for the respondent / State opposes the bail application and prays for its rejection by submitting that there are as many as 10 criminal antecedents have been found against the present applicant. He is habitual offender. Hence, is not entitled to be enlarged on bail.

Perused the impugned order of the trial Court as well as the case diary.

After considering all the facts and circumstances of the case, nature and gravity of offence, arguments advanced by the learned counsel for the applicants and also taking note of the fact that nothing has been recovered from the possession of the applicant; only few stolen articles have been recovered from the possession of the co-accused Ram Singh and Babulal; applicant is a young person; investigation is over, therefore, no further custodial interrogation of the applicant is required; offence is triable by JMFC; co-accused Ram Singh and Babulal have been enlarged on bail by this Court *vide* order dated 01/11/2022 passed in M.Cr.C.No.49188/2022 in similar circumstances and final conclusion of the trial will take sufficient long time. In these circumstances, I deem it proper to release the applicant on bail. Therefore, without commenting on the merits of the case, the bail application is allowed.

It is directed that applicants be released on bail on his furnishing personal bond in the sum of **Rs.75,000/- (Rupees Seventy Five Thousand Only)** with two solvent sureties, out of which one should be local, in the like amount to the satisfaction of the trial Court for his appearance before the trial Court, as and when required. He shall abide by all the conditions enumerated under Section 437(3) Cr.P.C.

Certified copy as per rules.

(ANIL VERMA)
JUDGE

Tej