



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

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 22nd OF JULY, 2025

MISC. CRIMINAL CASE No. 27060 of 2025

***(DELETED AS PER COURT ORDER DT. 07/07/2025) KANHA @
KRISHNA AND OTHERS***

Versus

THE STATE OF MADHYA PRADESH

Appearance:

*Shri Mohammad Ikram Ansari, Advocate for the applicant – Rahul
S/o. Sukhlal.*

Shri Vinod Thakur – G.A. for respondent/State.

ORDER

1] They are heard and perused the case diary.

2] This is the ***second*** bail application filed by applicant Rahul S/o. Sukhlal under Section 483 of *Bharatiya Nagarik Suraksha Sanhita*, 2023/ Section 439 of Cr.P.C. as he is implicated in connection with Crime No.31/2025 registered at Police Station Bag, District- Dhar (MP) for offence punishable under Sections 296, 115(2), 132, 121(1), 191(2), 190, 221, 224, 351(2), 117(2) & 121(2) of B.N.S., 2023. The applicant is in custody since 14.02.2025. His first bail application M.Cr.C. No.19138 of 2025 was dismissed by this Court on 17.05.2025 as withdrawn.



3] The allegation against the applicant is that he was also involved in the aforesaid case along with other five accused persons, whose names have also been reflected in the FIR. The FIR has been lodged at the instance of a policeman, Kailash, who was posted at *Dehari Chowki*, it is stated by him that on 12.02.2025, while he was on a police patrolling in a government vehicle bearing registration No.MP-03-A-6062, along with Head Constable Maalsingh, Constable Sonu and private driver Raju Jamod, at that time, at around 6:50 near a shiv temple, six persons were quarreling with each other and when the patrolling vehicle approached them, the police personnel asked the persons not to quarrel. However, instead of stopping, all the persons started abusing the police personnel, also pelted stones on them and assaulted with kicks and fists and fled from the spot on two motorcycles. It is also stated by the said policeman that all the accused persons, namely, Rahul, Mukesh, Rahul Baghel, Jitendra and Kanha were calling each other by their names, hence, the FIR is a named FIR.

4] Counsel for the applicant has submitted that the applicant has been falsely implicated in the case, and it is improbable that the accused persons would call each other's names while assaulting the police personnel, and there is no test identification parade (T.I.P.) to identify the accused persons. Thus, it is prayed that the application be allowed.

5] Counsel for the State, on the other hand, has opposed the prayer, and it is submitted that looking to the fact that the accused persons have assaulted the police personnel, no case for grant of bail is made out, as grievous injuries have been caused to Malsingh, Sonu and the complainant Kailash himself.



6] Heard counsel for the parties, and perused the case-diary.

7] During the course of arguments, this Court also inquired from the counsel for the State if there was any test identification memo available in the case-diary, to which counsel for the State has submitted that there is no test identification parade of the accused persons, probably because the FIR contains the names of the accused persons.

8] In the considered opinion of this Court, the failure on the part of the prosecution agency to conduct a test identification parade (TIP) clearly demonstrates yet another instance of utter negligence on the part of the prosecution agency, even when the assault was made on the police personnel.

9] This Court has also observed the same tendency in other cases also, where the accused persons, who are strangers and are not known to the witnesses from before, but whose names are mentioned in the FIR stating that they were calling each other's names, ultimately get the benefit of failure on the part of the prosecution to get the test identification parade of the accused persons. It is surprising that the T.I.P. has not been conducted only because the names of the accused persons are mentioned in the FIR as they were calling each other's names, surprising, because had the accused persons called themselves with some pseudo names, would the police have arrested some different set of accused persons?

10] In such circumstances, in the present case, when the police have not conducted any test identification parade, and the applicant has been arrested only on account of the fact that one of the other accused had



taken his name, his further incarceration does not appear necessary, when the charge-sheet has already been filed.

11] Accordingly, without commenting on the merits of the case, the application filed by the applicant Rahul is hereby **allowed**. The applicant **Rahul** is directed to be released on bail upon furnishing a personal bond in the sum of **Rs.25,000/- (Rupees Twenty Five Thousand)** with one solvent surety of the like amount to the satisfaction of the trial Court for his/her regular appearance before the trial Court during trial with a condition that he/she shall remain present before the court concerned during trial and shall also abide by the conditions enumerated under Section 437 (3) Criminal Procedure Code, 1973.

12] Accordingly, the application is **allowed** and **disposed of**.

C. c. as per rules.

(SUBODH ABHYANKAR)
JUDGE

Pankaj