

The High Court Of Madhya Pradesh

MCRC-44749-2020

(MAHILA SMT. JANKI BAI Vs THE STATE OF MADHYA PRADESH)

Jabalpur, Dated : 25-11-2020

Heard through Video Conferencing.

Shri Ashish Kumar Tiwari, learned counsel for the applicant.

Shri Nagendra Singh Solanki, learned Panel Lawyer for the respondent/State.

Heard on this first post-arrest application filed by the applicant under Section 439 of Code of Criminal Procedure for grant of bail.

The applicant is in jail since 13.9.2020 in connection with Crime No.354/2020, registered at Police Station-Jatara, District-Tikamgarh for offence under Sections 341, 307, 302, 324, 323, 294, 506 read with Section 34 of IPC.

The case of the prosecution against the applicant, in short, is that, a dispute arose between the parties on the basis of ploughing the agriculture field. Deceased Kundan was driving the tractor. At that time, four persons namely Rajendra, Chandrabhan, Har Prasad and Mamta Bai, armed with axe, came at the spot and started beating Kundan. When Raghuveer Yadav came at the spot to rescue Kundan, all accused persons including the applicant, assaulted him also. Kundan and Raghuveer rushed to the hospital, where Kundan succumbed to the injuries.

Learned counsel for the applicant submits that applicant Smt.Janki Bai has been implicated in the case later on. She was not present at the spot. She did not took part in the incident. Name of the applicant is not mentioned in the FIR but later on, she was implicated in the case on the basis of statements of injured and other witnesses. After investigation, charge-sheet has been filed and the applicant is not required for any further investigation. It is further submitted that the applicant is in jail since 13.9.2020 and trial will take considerable time for its disposal. Looking to the present situation of widespread of Novel Corona Virus (Covid-19), it is prayed that the applicant

be enlarged on bail.

On the other hand, learned Panel Lawyer for the respondent/State has opposed the application. He submits that though name of the applicant is not mentioned in the FIR but, later on, injured Raghuvver Yadav in his dying declaration has categorically stated about the presence of the applicant and arm borne by her. Other witnesses in their statements recorded under Section 161 of the Cr.P.C. have also stated about the presence and act of the applicant in the incident. In such circumstances, it is prayed that this application be dismissed.

Having heard the learned counsel for the parties and on a perusal of the case diary, no doubt dispute arose between the injured and accused party on the basis of cultivation of agriculture field. FIR was lodged promptly but name of the applicant Smt. Janki Bai was not mentioned in that report. Later on, during investigation, she was implicated in the case on the basis of statements of injured witness as well as other witnesses. The applicant is 50 years old lady and name of the applicant does not find place in the FIR.

In view of the aforesaid facts and circumstances of the case and also looking to the present situation of widespread of Novel Corona Virus (Covid-19), without commenting on the merits of the case, this Court is inclined to release the applicant on bail mainly on two grounds, *firstly*, name of the applicant is not mentioned in the FIR and *secondly*, she is 50 years old lady.

It is directed that applicant **Mahila Smt.Janki Bai** shall be released on bail on her furnishing a personal bond in the sum of **Rs.50,000/-(Rupees Fifty Thousand Only)** with one solvent surety of the like amount to the satisfaction of the trial Court, for her regular appearance before the trial Court with a condition that she shall remain present before the Court concerned during trial and shall also abide by the conditions enumerated under Section 437(3) of Cr.P.C.

This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Jail authorities and State Government are directed to follow the guidelines issued by the Health Ministry in the wake of Novel Corona Virus, before and after releasing the applicant.

Certified copy as per rules.

**(VISHNU PRATAP SINGH CHAUHAN)
JUDGE**

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