

**The High Court Of Madhya Pradesh****MCRC-44937-2020***(RAJA BHAIYA Vs THE STATE OF MADHYA PRADESH)***Jabalpur, Dated : 25-11-2020****Heard through Video Conferencing.**

Shri B.J. Chourasiya, Advocate for the applicant.

Shri Brijesh Kushwaha, Panel Lawyer for the respondent-State.

This is first bail application filed by the applicants under Section 439 of the Code of Criminal Procedure.

The applicant is in custody since 21.10.2020, in connection with Crime No.206/2019 registered at Police Station Behriya, District Sagar (M.P.) for the offence punishable under Sections 323, 294, 427, 506, 326 & 324 of IPC.

As per prosecution story, on 9.9.2020, Khoob Singh Dagi closed his shop, then accused/applicant reached there and demanded *Bidi*, when Khoob Singh refused, then accused/applicant inflicted injury to injured-Khoob Singh from blunt side of Axe. Khoob Singh received grievous injury. Thereafter, case has been registered against the present applicant for the aforesaid offence.

Learned counsel for the applicant submits that applicant is in jail since 21.10.2020. The accused/applicant has been falsely implicated in this case. It may be a case under Section 325 of IPC. Charge sheet has been filed. There is no previous criminal antecedent against the present accused/applicant. It is the time of COVID-19, so further proceedings in the trial Court is withheld and trial will take long time in its final disposal. Accused/applicant is bread earner of his family and if he is kept in custody in future, then his future of his family would be spoiled. There is no probability of his absconding or tampering with the prosecution evidence. The accused/ applicant ready to furnish bail as per the order, abiding with all conditions imposed by the Court. On these grounds, learned counsel for the applicant prays for grant of bail to the applicant.

Per-contra, learned Panel Lawyer opposes the bail application on the ground of previous criminal record.

After hearing arguments of the parties and looking to the facts and circumstances of the case and the fact that it is alleged by prosecution that accused/applicant inflicted injury from the blunt side of Axe to the injured, the applicant is in jail since 21.10.2020, charge sheet has been filed, there is no previous criminal antecedent against the applicant, it is the time of COVID-19, so further proceedings in the trial Court is withheld, the trial will take time for

final disposal, there is no probability of his absconding or tampering with the prosecution, it would be appropriate to release the applicant on bail, therefore without commenting on merits of the case, application of the applicant under Section 439 of the Cr.P.C. seems to be acceptable. Consequently, it is hereby **allowed**.

It is directed that **applicant-Raja Bhaiya** be released on bail on his furnishing bail bond in the sum of **Rs.50,000/-(Rupees Fifty Thousand)** with one surety of the same amount to the satisfaction of the JMFC concerned or trial Court for his appearance before the trial Court on the dates given by the concerned Court. It is directed that the applicant shall comply with the provisions of Section 437(3) of the Cr.P.C. In view of the outbreak of 'Corona Virus disease (COVID-19)' the applicant shall also comply the rules and norms of social distancing.

Further, in view of the order passed by the Hon'ble Supreme Court in suo moto W.P.No.1/2020, it would be appropriate to issue the following direction to the jail authority :-

1. *The Jail Authority shall ensure the medical examination of the applicant by the jail doctor before his release.*
2. *The applicant shall not be released if he is suffering from 'Corona Virus disease'. For this purpose appropriate tests will be carried out.*
3. *If it is found that the applicant is suffering from 'Corona Virus disease', necessary steps will be taken by the concerned authority by placing him in appropriate quarantine facility.*

Certified copy as per rules.

**(RAJENDRA KUMAR SRIVASTAVA)**  
**JUDGE**

A.Praj.