

# The High Court Of Madhya Pradesh

MCRC No. 63443 of 2021

(KAMAL KEVAT Vs THE STATE OF MADHYA PRADESH)

**Jabalpur, Dated : 24-01-2022**

**Heard through Video Conferencing.**

Shri Sanjay Sharma, learned counsel for applicant Kamal Kevat  
S/o.Bhaiyalal Kevat.

Shri Vijay Kumar Shukla, learned Panel Lawyer for non-  
applicant/State.

This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 (for brevity "Cr.P.C") for grant of bail to the applicant, who is in custody since 6.10.2020 in connection with Crime No.469/2020 registered at Police Station Dehat Hoshangabad, District Hoshangabad for the offence punishable under Sections 302 of Indian Penal Code 1860 (for brevity "I.P.C").

Learned counsel for the applicant submits that applicant is innocent. He has been falsely implicated in this case. There are two eye-witnesses to the incident; one is Hema Kewat (PW.1) and another is Jitendra Kewat (PW.6). Reading the statements of Hema Kewat (PW.1) & Jitendra Kewat (PW.6), it is submitted that according to the aforesaid eye-witnesses, the allegation against the present applicant is of causing a single blow on the head of the deceased with a *Lathi*. Reading the postmortem report, it is submitted that there is no head injury on the body of the deceased. As per opinion of the doctor, it was a case of rupture of spleen, shock of which caused the death. Reading cross-examination of Jitendra Kewat (PW.6), it is submitted that Jitendra Kewat (PW.6) had admitted that his father was consuming excessive liquor and died of rupture of spleen, a fact which was informed to him by the doctor. Jitendra Kewat (PW.6)

admitted that his sister Hema Kewat (PW.1) had lodged a report against Ashok Kewat, brother of present applicant/accused Kamal Kewat. Hema Kewat (PW.1) admitted about their old enmity with the present applicant's brother and her version was also that the present applicant had hit her father with a *Danda* on his head as a result of which he had fallen down. Hema Kewat (PW.1) admitted that she had given her statement under Section 164 of Cr.P.C as per instructions of the Police. Reading the statement of Hema Kewat (PW.1) recorded under Section 164 of Cr.P.C, it is submitted that the cause of death of the deceased is different from the nature of injury allegedly caused by the applicant as has been unanimously narrated by Hema Kewat (PW.1) & Jitendra Kewat (PW.6), the only two eye-witnesses to the incident. There is no dispute about postmortem report where the cause of death is rupture of spleen, which has nothing to do with the head injury. There is no mention of head injury on the body of the deceased. Hence, prayer is made to enlarge the applicant on bail.

Learned Panel Lawyer for the non-applicant/State opposes the application but, however, admits that in the postmortem report, there is no mention of any head injury on the body of the deceased.

After hearing counsel for the parties and considering other facts & circumstances of the case and keeping in view the fact that there is no mention of any head injury on the body of the deceased, this Court is of the considered opinion that it is a fit case for grant of bail to the applicant. Hence, without commenting anything on merits of the matter, this application is allowed.

It is directed that applicant Kamal Kewat S/o.Bhaiyalal Kewat shall be released on bail on his furnishing a personal bond in sum of

Rs.50,000/- (Rupees Fifty Thousand Only) with two solvent sureties of the like amount each to the satisfaction of the Trial Court to appear before the Court on the dates given by the concerned Court during pendency of trial. It is further directed that the applicant shall comply with the provisions of Section 437(3) of the Cr. P. C.

This order shall be effective till the end of the trial, however, in case of bail jump and breach of any of the pre-condition of bail, it shall become ineffective.

In view of the outbreak of new mutant Omicron of COVID-19, the jail authorities and the 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.

(VIVEK AGARWAL)  
JUDGE

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