

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

BEFORE

HON'BLE SMT. JUSTICE ANURADHA SHUKLA

ON THE 29th OF SEPTEMBER, 2023

MISC. CRIMINAL CASE No. 42403 of 2023

BETWEEN:-

**GAURAV CHOUDHARY, S/O HARISHANKAR
CHOUDHARY, AGED ABOUT 18 YEARS, OCCUPATION:
AGRICULTURIST, R/O VILLAGE SILARARIKALA,
TEHSIL MAKHAN NAGAR, DISTRICT NARMADAPURAM
(MADHYA PRADESH)**

.....APPLICANT

**(BY SHRI SHREYASH PANDIT AND SHRI MARTAND PALIWAL-
ADVOCATES)**

AND

**THE STATE OF MADHYA PRADESH THROUGH P.S.
SOHAGPUR, DISTRICT NARMADAPURAM (MADHYA
PRADESH)**

.....RESPONDENTS

**(SHRI SANDEEP KUMAR DUBEY - PANEL LAWYER FOR THE STATE)
(SHRI SATYAM AGRAWAL - ADVOCATE FOR THE OBJECTOR)**

*This application coming on for admission this day, the Court passed
the following:*

ORDER

This is **first** application for grant of anticipatory bail under section 438 of the Code of Criminal Procedure 1973 on behalf of the applicant who is apprehending his arrest in connection with Crime No.443/2023 dated 10.07.2023 registered at Police Station Sohagpur, District Narmadapuram, for the offence punishable under Sections 307 and 34 of IPC.

Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in the crime in question. The applicant is a

permanent resident of district and there is no likelihood of his absconding or tampering with prosecution evidence. The applicant is willing and ready to abide by all the directions and conditions to be imposed by this Court. He also submits that the trial would take considerable time. Therefore, prayer has been made to enlarge the applicant on anticipatory bail.

Learned counsel for the State has opposed the prayer for grant of anticipatory bail.

Heard learned counsel for the parties and perused the case diary.

This anticipatory bail has been argued on the ground that in similar set of facts co-accused has been granted anticipatory bail under M.Cr.C. No.39312/2023. The application of co-accused was allowed for the reason that his name was not given in the *Dehati Nalishi* and was not even disclosed in the hospital by the victim. It was observed by the Court while allowing that application that co-accused was not an unknown person to the victim still no reason was given for not disclosing his name in *Dehati Nalishi*, FIR or the information given to the hospital authorities. Similar is the case of present applicant. He is not the main assailant.

The bail application has been opposed by the counsel for the objector as well by the State on the ground that the name of present applicant was disclosed during the testimony of other witnesses. For this, the police statements of Ram Singh Patel have been relied upon, but these statements are merely of hearsay nature. The only witness who could name the applicant during his police statement was Shivraj Patel whose statements were recorded on 06.08.2023 while the incident occurred on 09.07.2023. The delay in recording the police statement of this important witness is not explained in the

entire case diary.

Having considered these facts, this Court considers it proper to allow the anticipatory bail application of applicant. Hence, the application is **allowed** by applying the principal of parity.

It is directed that in the event of arrest of applicant by the police in the aforesaid crime, he shall be released on bail on his furnishing personal bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand only)** with one surety in the like amount to the satisfaction of the Arresting Officer (Investigating Officer) for his regular appearance before the Police/Arresting Officer during the investigation or before the Court during trial.

It is directed that the applicant shall abide by the conditions enumerated under Section 438(2) of Cr.P.C., failing which this order shall automatically stand cancelled without further reference to the Court.

Accordingly, the M.Cr.C stands **allowed** and **disposed of**.

(ANURADHA SHUKLA)
JUDGE

sjk