

The High Court Of Madhya Pradesh

MCRC-23350-2020

(VIKRAM Vs THE STATE OF MADHYA PRADESH)

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Indore, Dated : 30-07-2020

Shri Vishal Patidar, learned counsel for the applicant.

Shri Sudhanshu Vyas, learned Panel Lawyer for the respondent-State.

Heard through Video Conferencing.

This is the first application under Section 439 of Cr.P.C., for grant of bail filed on behalf of the applicant. The applicant is in custody since 02/06/2020 in connection with crime No.133/2020 registered at Police Station Bhatpachlana, District-Ujjain for the offence punishable under sections 452, 354(A), 354, 323 and 506 of IPC.

As per the prosecution story, on 20/04/2020 at about 2:30 am, the applicant as a neighbour has entered the house of the complainant and caught hold of hand of the complainant attempting to outrage her modesty. Accordingly, case has been registered. Investigation is complete. Challan has been filed.

Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the crime. Investigation is complete. Challan has been filed. He is no more required for further custodial interrogation. The applicant is in custody since 02/06/2020. It is further submitted that as a matter of fact, the applicant had asked the husband of the complainant to return back the outstanding loan amount against him, which was advanced by the applicant during the lockdown period. The complainant's husband had taken exception thereto and as a sequel to the demand, filed the instant false case against the present applicant. Besides, the applicant is a married persons and cannot think of entering the house of the neighbour to outrage the modesty of a women/ complainant. The family is on the verge of starvation due to his jail incarceration. Further jail incarceration shall jeopardise the life of the family members. Due to prevailing Covid-19

situation, trial is not likely to conclude early in the near future. Under such circumstances, the applicant deserves to be enlarged on bail on such terms and conditions, Hon'ble Court deems fit and proper.

Per contra, learned Panel Lawyer opposes the bail application supporting the order impugned. It is submitted that even if, this Court is inclined to grant bail to the applicant, certain stringent conditions may be imposed.

Upon hearing learned counsel for the parties, without commenting upon the rival contention so advanced, but regard being had to the fact that the applicant has already suffered jail incarceration for more than two months, he is no more required for further custodial interrogation, therefore, he is held entitled for enlargement on bail. Consequently, the application of the applicant filed under Section 439 of the Cr.P.C., is hereby allowed. It is directed that the applicant be released on bail, on furnishing personal bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand only)** with one solvent surety in the like amount to the satisfaction of the trial Court, on the condition that he shall remain present before the Court concerned during trial and also comply with the conditions enumerated under Section 437(3) of Cr.P.C., with following further conditions:

(i) the applicant along with his wife shall visit the house of the complainant with Rakhi thread / band on 03rd August, 2020 at 11:00 am with a box of sweets and request the complainant-Sarda Bai to tie the Rakhi band to him with the promise to protect her to the best of his ability for all times to come. He shall also tender **Rs.11,000/- (Rs. Eleven Thousand Only)** to the complainant as a customary ritual usually offered by the brothers to sisters on such occasion and shall also seek her blessings. The applicant shall also tender Rs.5,000/- to the son of the complainant-Vishal for purchase of clothes and sweets.

The applicant shall obtain photographs and receipts of payment made to the complainant and her son, and the same shall be filed through the

counsel for placing the same on record of this case before this Registry.

The aforesaid deposit of amount shall not influence the pending trial, but is only for enlargement of the applicant on bail.

(ii) the applicant shall furnish a written undertaking with his complete residential details that he shall abide by the terms and conditions of various circulars and orders issued by the Government of India and the State Government as well as the local administration from to time in the matter of maintaining social distancing, physical distancing, hygiene, etc., to avoid proliferation of Novel Corona virus (COVID-19);

(iii) the applicant shall install Aarogya Sethu App (if not already installed) in his mobile phone;

(iv) the applicant shall not tamper with the evidence whatsoever in any manner or induce or threat any person acquainted with the facts of the case;

(v) the applicant shall cooperate during trial and will not seek unnecessary adjournments during trial;

(vi) the applicant shall not leave India or the area without previous permission of the trial Court/Investigating Officer, as the case may be;

(vii) the concerned jail authorities are directed that before releasing the applicant, the medical examination of the applicant be conducted through the jail doctor and if it is prima facie found that he is having any symptoms of COVID-19, then the consequential follow up action including the isolation/quarantine or any further test required be undertaken immediately. If not, the applicant shall be released on bail in terms of the conditions imposed in this order and shall also be given pass or permit for movement to reach his place of residence;

In the event of violation of any of the terms and conditions of the order by the applicant, the prosecution is at liberty to seek cancellation of the bail granted to the applicant.

Learned Panel Lawyer is directed to send an e-copy of this order to all the concerned including the concerned Station House Officer of the police

station for information and necessary action.

Registry is directed to send an e-copy of this order to the Court concerned for necessary compliance.

It is made clear that this e-copy order be treated as Certified copy in terms of the advisories issued by the High Court from time to time.

(ROHIT ARYA)
JUDGE

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