

## Dashrath Vs State Of Madhya Pradesh

**Court:** Madhya Pradesh High Court (Indore Bench)

**Date of Decision:** Dec. 22, 2020

**Acts Referred:** Code Of Criminal Procedure, 1973 " Section 437(3), 439  
Indian Penal Code, 1860 " Section 120B, 147, 148, 149, 294, 307  
Evidence Act, 1872 " Section 27

**Hon'ble Judges:** Rohit Arya, J

**Bench:** Single Bench

**Advocate:** Archana Maheshwri, Poorva Mahajan

**Final Decision:** Allowed

### Judgement

Rohit Arya, J

This is the second repeat application under Section 439 of Cr.P.C. The first application was dismissed as withdrawn on 03.12.2020 vide MCRC

No.43063/2020. The applicant is in custody since 2.9.2020 in connection with Crime Case No.426/2020 registered at Police Station, Nagda, District

Ujjain for the offence punishable under Section 307, 147, 148, 149, 294, 120-B of IPC.

As per the prosecution story, while the complainant Rahul Jain came out at Munnalal Jat's Dhaba alongwith his friend Alok after having meals, main

accused Jitendra Jatav and Gabbar Rajpoot armed with iron pipe came closed to him and hurled filthy abuses. Thereafter, Gabbar Rajpoot hit him on

his head with iron pipe and Jitendra Jatav hit him on his left hand resulting into profussed bleeding. Thereafter, Alok came in rescue of the

complainant. It has also been alleged in the FIR that there were 10-15 persons helping the accused in beating the complainant. During investigation in

the memos of main accused Jitendra Jatav and Gabbar Rajpoot under Section 27 of Evidence Act the applicant has been implicated and arrested.

Learned counsel for the applicant submits that applicant is innocent and he has been falsely implicated. The investigation is complete and challan has

been filed. The applicant is not required for further custodial interrogation. There are no criminal antecedents of the applicant. He has not been named

in the FIR. He was not present on the spot. No act much less overt act is attributed to the applicant. He has already suffered jail incarceration since

2.9.2020. Besides, looking to the 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 for the respondent/State opposes the bail application supporting the order impugned with submission that once

applicant has been named in the memos under Section 27 of Evidence Act having participated in the crime. The main accused physically assaulted the

complainant. However, she fairly submits that there are no criminal antecedents of the applicant and not required for further custodial interrogation.

Upon hearing counsel for the parties but without touching merits of the contentions so advanced, regard being had to the fact that the applicants have

suffered jail incarceration since 2.9.2020, having no criminal antecedents, not required for custodial interrogation and due to Covid-19, the possibility of

delay in conclusion of trial cannot be ruled out, it is considered apposite to enlarge the applicant on bail.

Consequently, the application of the applicant filed under Section 439 of the Criminal Procedure Code, 1973 is hereby allowed. It is directed that the

applicant be released on bail on his furnishing personal bond in the sum of Rs.2,50,000/- (Rs.Two Lacs Fifty Thousand Only) with solvent surety in the

like amount to the satisfaction of the learned Trial Court and 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 Criminal Procedure Code, 1973 with following further conditions:

(i) the applicant will 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 time to time in the matter of maintaining social distancing, physical distancing, hygiene, etc., to avoid proliferation

of Novel Corona virus (COVID-19);

(ii) the applicant shall mark his attendance before the concerned Police Station on 2nd and 4th Saturday of every month between 10.00 am to 12.00

noon.

(iii) 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 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;

(iv) violation of conditions, State is free to apply for cancellation of bail.

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.

E-Certified copy as per rules.