
(2021) 04 MP CK 0081

Madhya Pradesh High Court (Gwalior Bench)

Case No: Miscellaneous Criminal Case No.20097 Of 2021

Mahesh

APPELLANT

Vs

State Of M.P

RESPONDENT

Date of Decision: April 23, 2021

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 439
- Indian Penal Code, 1860 - Section 376, 450

Hon'ble Judges: G.S. Ahluwalia, J

Bench: Single Bench

Advocate: R.K.Mishra,Uma Kushwah

Final Decision: Dismissed

Judgement

G.S. Ahluwalia, J

This second repeat application under Section 439 of Cr.P.C. has been filed for grant of bail.

The applicant has been arrested on 27/01/2021 in connection with Crime No.08/2021 registered at Police Station Bamorkala, District Shivpuri for offence under Sections 376 and 450 of IPC.

It is submitted by the Counsel for the applicant that the police after completing the investigation has filed the charge-sheet.

Per contra, the application is vehemently opposed by the counsel for the State. It is submitted by the counsel for the State that filing of the charge-sheet cannot said to be a change in circumstance.

Heard the learned counsel for the parties.

The Supreme Court in the case of Virupakshappa Gouda Vs. State of Karnataka reported in (2017) 5 SCC 406 has held as under:-

“12. On a perusal of the order passed by the learned trial Judge, we find that he has been swayed by the factum that when a charge-sheet is filed

it amounts to change of circumstance. Needless to say, filing of the charge-sheet does not in any manner lessen the allegations made by the

prosecution. On the contrary, filing of the charge-sheet establishes that after due investigation the investigating agency, having found materials, has

placed the charge-sheet for trial of the accused persons. As is further demonstrable, the learned trial Judge has remained absolutely oblivious of the

fact that the appellants had moved the special leave petition before this Court for grant of bail and the same was not entertained. Be it noted, the

second bail application was filed before the Principal Sessions Judge after filing of the charge-sheet which was challenged in the High Court and that

had travelled to this Court. These facts, unfortunately, have not been taken note of by the learned trial Judge. He has been swayed by the

observations made in Siddharam Satlingappa Mhetre [Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri)

514] , especially in para 86, the relevant part of which reads thus: (SCC p. 729)

“86. “The courts considering the bail application should try to maintain fine balance between the societal interest vis-à-vis personal liberty while

adhering to the fundamental principle of criminal jurisprudence that the accused is presumed to be innocent till he is found guilty by the competent

court.”

Since, filing of the charge-sheet cannot be said to be a change in circumstance, on the contrary it indicates that the police has found some substance in

the allegations and the bail application of the applicant has been recently dismissed on merits by order dated 25/02/2021, no case is made out for grant

of bail to the applicant.

Accordingly, the application fails and is hereby dismissed.