
(2021) 07 MP CK 0173

Madhya Pradesh High Court (Indore Bench)

Case No: Miscellaneous Criminal Case No.36337 Of 2021

Hemant

APPELLANT

Vs

State Of M.P

RESPONDENT

Date of Decision: July 26, 2021

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 41, 41(A), 161, 438
- Madhya Pradesh Freedom Of Religion Ordinance, 2020 - Section 2(h), 3, 5

Hon'ble Judges: Vivek Rusia, J

Bench: Single Bench

Advocate: Tarun Kushwaha, Mukesh Sharma

Final Decision: Allowed

Judgement

Vivek Rusia, J

This is the first bail application filed under Section 438, Cr.P.C., 1973 for grant of bail in connection with Crime No.83/2021, Police-Station-

Bhanwarkuan, District- Indore for commission of the offence under Sections 3 and 5 of M.P. Freedom of Religion Ordinance, 2020.

According to the applicant he is permanent resident of Ratlam and follows hindu religion and did not practice preaches or profess christianity religion or any other religion.

As per prosecution case, on 26.01.2021, the complainant-Shalini Kaushal who is the daughter of Rakesh Kaushal and Rani Kaushal was taken to a

place called Church Satyaprakash Sanchar Kendra Behind Bhanwarkuan-Police Station where she found that some conversion from hinduism to

christianity was being conducted by number of people. She resisted but she was forcibly taken inside the hall and compelled to dance on a english tune

which made her to believe that she is being pressurized for conversion into christianity. Two more complainants namely Rohit Bamania and Dishant

Patidar have also faced the similar abatement or instigation in respect of conversion. On the basis of the complaint Bhanwarkuan Police Station has

registered an F.I.R. Sections 3 and 5 of M.P. Freedom of Religion Ordinance,2020 against as many as 11 accused including the co-accused persons

were arrested them hence, the present bail application before this Court.

Learned counsel for the applicant submits that M.P. Freedom of Religion Ordinance, 2020 has been published in the Gazette Notification dated

09.01.2021 and the Section 3 of the ordinance prohibits that no person shall convert or attempt to convert either directly or other wisely any person by

use of force, undue influence, abate or conspire such conversion. Under Section 5 of M.P. Freedom of Religion Ordinance,2020 there is a provision of

punishment with imprisonment for the term which shall be less than one year and which may extend to five years and with fine.

Learned counsel for the applicant further submits that no conversion is permissible without the presence of religious priest as defined under section

2(h) of M.P. Freedom of Religion Ordinance,2020 and as per the complaint no such father who said to be a religious priest in the christian religion was

there therefore, the allegation of illegal conversion is baseless. There is no progress in the investigation since the registration of F.I.R. Only the

statement of witnesses have been recorded. Nothing incriminating materials have been recovered from the applicant. He has no criminal past and

there is nothing on record that shows that they follow the christian religion. Learned counsel for the applicant submits that applicant Jitendra Meda had

booked the campus of Iskant Sadan for celebrating the Republic Day on 26.01.2021 and also paid Rs.1,000/-as rent. The copy of the documents have

filed along with the bail application.

Learned counsel for the applicant submits that in view of the law laid down in case of Arnesh Kumar V/s State of Bihar in the year 2014 (8) SCC 273

the arrest of the applicant is not necessary in view of the Section 41 and 41(A) of the Cr.P.C. The applicant is ready to co-operate with the

investigation. Under these circumstances, learned counsel prays for grant of bail to the applicant.

Learned panel lawyer for the respondent/State opposes the bail application.

As on today except statements recorded under Section 161 of Cr.P.C. of the complainant and two others nothing incriminating material has been

collected by the police from Church Satyaprakash Sanchar Kendra Behind Bhanwarkuan Police Station. Before issuance of this Ordinance the

conversion was prohibited but not an offence.

Keeping in view all the allegations and material collected by the police without commenting on the merits of the case, the bail application is allowed. It

is directed that in the event of arrest of the applicant in connection with the aforesaid crime number, he shall be released on bail upon his furnishing

personal bond in the sum of Rs.30,000/- (Rupees thirty Thousand) with one surety in the like amount to the satisfaction of the arresting officer. This

order shall be governed by the following conditions:

(a) the applicant shall co-operate with the investigation and make himself available for interrogation by a police officer as and when required;

(b) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him

from disclosing such facts to the Court or to any police officer;

(c) If the applicant is found involved in any criminal case of the same nature during this bail period, this order granting the benefit of anticipatory bail

shall be liable to be cancelled;

(d) he shall not leave the territory of India without the prior permission of the Court.

Certified copy as per rules.