

Mukesh And Another Vs State Of M.P.**Miscellaneous Criminal Case No.47431 Of 2021**

Court: Madhya Pradesh High Court (Gwalior Bench)**Date of Decision:** Sept. 28, 2021**Acts Referred:**

Code Of Criminal Procedure, 1973 " Section 439#Indian Penal Code, 1860 " Section 34, 294, 323, 324, 326, 506

Hon'ble Judges: S. A. Dharmadhikari, J**Bench:** Single Bench**Final Decision:** Allowed

Judgement

S.A.Dharmadhikari, J

This is first application under section 439 of the Cr.P.C. for grant of bail.

After being arrested in connection with Crime No.139/2021 registered at Police Station Bamorkala, District Shivpuri for the offences punishable under

Sections 324, 294, 323, 506, 34 and subsequently enhanced 326 of the IPC, the applicants are in judicial custody.

Allegations against the applicants, in short, are that, on 3/7/2021, at about 9 PM, when complainant along with his brothers Prakash, Anand Kushwah

and Ramesh Kushwah was eating at a hotel, all the accused persons came and started abusing them filthily. When Prakash objected, co-accused Tulsi

Kushwah inflicted injury with Axe on forehead of Prakash, co-accused Kalu Kushwaha assaulted him with a Danda causing injury above left eye

while the present applicants beat Prakash with Lathis due to which he received simple injuries on left ribs and abdomen. On the basis of aforesaid,

crime has been registered.

Learned counsel for the applicants submits that applicants have falsely been implicated in the case. They are in custody since 31/8/2021. Charge-sheet

has been filed and no further custodial interrogation is required. The main allegation of beating Prakash is on Tulsi due to whom the offence under

section 326, IPC has been enhanced. The applicants are permanent residents of Village Airavani, PS Bamorkala, District Shivpuri and there is no

likelihood of their absconson or tampering with the prosecution evidence. They are ready and willing to abide by the terms and conditions as may be

imposed by this Court. With the aforesaid submissions, prayer for grant of bail is made.

On the other hand, learned counsel for the State opposed the application and prayed for its rejection by contending that on the basis of the allegations

and the material available on record, no case for grant of bail is made out. Attention has also been invited to the fact that applicant Mukesh has

criminal antecedent of one case to his discredit.

However, it would not be desirable to enter into the merits of the rival contentions at this juncture.

Having heard learned counsel for the parties, taking into consideration the facts and circumstances of the case coupled with the fact that trial is not

likely to conclude in near future and prolonged pre-trial detention being an anathema to the concept of liberty, this Court is inclined to extend the

benefit of bail to the applicant.

Accordingly, without expressing any opinion on merits of the case, this application is allowed and it is directed that each one of the applicants namely

Mukesh and Krishnapal be released on bail on furnishing a personal bond in the sum of Rs. 50,000/- (Rupees fifty thousand only) with a solvent surety

in the like amount to the satisfaction of the trial Court/committal Court for his appearance on the dates given by the concerned Court. The applicants

shall also furnish a written undertaking that they will abide by the terms and conditions of various circulars, as well as, orders issued by the Central

Government, State Government and local administration from time to time such as maintaining social distancing, physical distancing, hygiene etc. to

avoid proliferation of Corona virus.

This order will remain operative subject to compliance of the following conditions by the applicants :-

1. The applicants will comply with all the terms and conditions of the bond executed by them;
2. The applicants will cooperate in the investigation/trial, as the case may be;
3. The applicants will not indulge in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicants will not seek unnecessary adjournments during the trial; and
5. The applicants will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.
6. If any of the applicants commits any offence while on bail, then this order, so far as it relates to that applicant, shall automatically stand cancelled

without reference to the Court.

Certified copy as per rules.