

Virendra Dhaniram Gupta Vs State Of Madhya Pradesh

Court: Madhya Pradesh High Court (Gwalior Bench)

Date of Decision: Sept. 27, 2022

Acts Referred: Code Of Criminal Procedure, 1973 " Section 439, 439(2)
Indian Penal Code, 1860 " Section 420, 467

Hon'ble Judges: Gurpal Singh Ahluwalia, J

Bench: Single Bench

Advocate: Arun Pateriya, Prashant Sharma, A.K.Nirankari, Alok Sharma

Final Decision: Allowed

Judgement

Ã, Gurpal Singh Ahluwalia, J

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

The applicant has been arrested on 02/03/2022 in connection with Crime No.261/2018 registered at Police Station University, District Gwalior for

offence under Sections 420, 467 of IPC.

The applicant was earlier granted bail by order dated 22/10/2019 passed by Co-ordinate Bench of this Court in MCRC No.38260/2019 on certain

conditions. An application under section 439 (2) of Cr.P.C. was filed by the complainant on the ground that the applicant has not fulfilled the conditions

on which the applicant was granted bail. The said application was registered as MCRC No.3173/2021. The notices of the said application were issued

but every time they were received back unserved on the ground that he is not found on the given address. Thereafter, the report of the Court below

was called and it was found that the applicant was released by order dated 19/11/2019 and except on 03/02/2020 he did not appear on any of the date

and always prayed for exemption from appearance and ultimately on 07/09/2021 the application filed under section 317 of Cr.P.C. was rejected and

warrant of arrest was issued. Ultimately by order dated 08/01/2022 a perpetual warrant of arrest was issued. It appears that the order of Trial Court

by which the perpetual warrant of arrest was issued was not brought to the notice of the Court and accordingly MCRC No.3173/2021 which was filed

for cancellation of bail was allowed by order dated 24/01/2022 on the ground that the applicant has not appeared before the Trial Court after he was

released on bail.

It is submitted by the counsel for the applicant that the applicant has surrendered on 02/03/2022 and it was prayed that since he is not in possession of

the subsequent order-sheets, therefore, he may be granted a weeks time to produce the same.

However, it is submitted by Shri Alok Sharma that charges were framed on 14/03/2022 and the trial programme was filed on 25/05/2022 and the case

was fixed for 09/09/2022 for examination of the complainant. Since the applicant has not fulfilled the conditions imposed by this Court by which he

was granted bail and he has not executed a sale-deed in respect of desired flat, therefore, the applicant prayed for deferment of recording his

evidence and accordingly, now the case is fixed for 30/09/2022.

Taking clue from the submissions made by counsel for the complainant, it is submitted by Shri Patariya and Shri Sharma that in fact the complainant is

trying to settle his civil dispute by keeping the applicant in jail and for that purposes he is ready to go to the extent of delaying the trial and under these

circumstances, the application for grant of bail of the applicant may be considered sympathetically. It is submitted that because of the previous

conduct of the applicant, he is ready and willing to abide by any stringent condition which may be imposed by this court including that of furnishing

cash surety of Rs. 5,00,000/-.

Per contra, the application is vehemently opposed by the counsel for the State as well as counsel for the complainant. It is submitted that as many as

14 more criminal cases of similar in nature have been registered against the applicant and in some of the cases he has been acquitted on the ground of

compromise.

Considering the period of detention as well as considering the fact that the complainant also did not give his evidence on 09/09/2022 for the reasons

best known to him as well as considering the fact that the applicant was earlier granted bail by Co-ordinate Bench of this Court on merits as well as

concessional statement made by the counsel for the applicant, the application for grant of bail is allowed. It is directed that the applicant shall be

released on bail on furnishing cash surety of Rs.5,00,000/- (Rupees Five Lacs) to the satisfaction of the Trial Court/Committal Court to appear before

the Court on the dates given by the concerned Court.

This order shall remain effective till the end of trial but in case of bail jump, it shall become ineffective.

It is made clear that single default in appearance before the Trial Court, or in case of registration of new offence, this bail order shall automatically

come to an end and the cash surety so furnished by the applicant shall automatically stand forfeited without any reference to the Court.

In the light of the judgment passed by the Supreme Court in the case of Aparna Bhat and others Vs. State of M.P.
Passed on 18.03.2021 in Criminal

Appeal No. 329/2021, the intimation regarding grant of bail be sent to the complainant.

CC as per rules.