

(2023) 01 MP CK 0094

Madhya Pradesh High Court (Indore Bench)

Case No: Miscellaneous Criminal Case No. 45856 Of 2022

Rohit @ Jagira

APPELLANT

Vs

State Of Madhya
Pradesh

RESPONDENT

Date of Decision: Jan. 24, 2023

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 439
- Indian Penal Code, 1860 - Section 34, 294, 324, 327, 329, 506
- Arms Act, 1959 - Section 25

Hon'ble Judges: Vijay Kumar Shukla, J

Bench: Single Bench

Advocate: Khuzema Kapadia,, Raghvendra Singh

Final Decision: Allowed

Judgement

Vijay Kumar Shukla, J

This is fourth application under Section 439 of the Cr.P.C. filed on behalf of the applicant in connection with Crime No.640/2019 registered at Police

Station - MIG, District Indore under Section 327,324,294,506,34 and 329 of IPC and Section 25 of the Arms Act.

The first bail application of the applicant was dismissed vide order dated 16.03.2020 in MCRC.No.10607/2020, the second temporary bail application

was allowed vide order dated 14.08.2020 in MCRC.No.26669/2020 and the order dated bail application of the applicant was dismissed vide 21.12.2021

in MCRC.No.51476/2021.

Counsel for the applicant submits that the applicant is in custody for almost four years and the trial has not yet been concluded. The complainant is not turning up and only one eye witnesses has been examined and he has not supported the prosecution case. The applicant is HIV Positive and his health is deteriorating day by day. Hence, the applicant may be enlarged on bail.

Counsel for the respondent/State opposes the prayer.

A status report was called and from the status report it reveals that large number of witnesses are yet to be examined. The complainant is not turning up in the witness box despite 22 summons. On 29.09.2022, counsel for the respondent/State prayed for an opportunity to produce the complainant before the trial Court for recording his statement. Despite that the complainant has yet not been produced before the trial Court.

Considering the incarceration period of the applicant at pre trial stage and as per the status report the trial is yet to take time, I am of the view that the applicant is entitled for grant of bail. Therefore, without expressing any view on the merits of the case, the application is allowed on a condition that the applicant will not threaten or influence the complainant.

It is directed that Applicant- Rohit @Jagira shall be released from custody upon furnishing a personal bond of Rs.50,000/- (Rupees Fifty Thousand

Only) with one surety of the like amount to the satisfaction of the court below,

The prison authorities are also requested to ensure compliance with the order passed by the Supreme Court IN RE : CONTAGION OF COVID 19

VIRUS IN PRISONS in SUO MOTU ""W.P. (C) No.1/2020"" and ensure that the NottheVerifiedapplicant is examined by the jail doctor before his/her

release. If the applicant shows symptoms of COVID-19, the doctor shall forthwith direct him/her to be produced before the appropriate hospital

designated for the detection and treatment of COVID-19 patients. If the doctor is of the opinion that the applicant is not affected with the virus, the jail

authorities shall ensure his/her transportation from the jail till his/her place of residence.

A typed copy of this order is being forwarded to the Office of the Advocate General, on their email address, for intimation to the Police Station

concerned. The office is requested to forward a copy of this order to the court below.

C.c. as per rules.