

THE HIGH COURT OF MADHYA PRADESH

MCRC-21305/2022
(Devendra Lodhi Vs. State of M.P.)

Gwalior, Dated: 29.04.2022

Shri A.K. Dwivedi, learned counsel for applicant.

Shri Pramod Pachori, learned Public Prosecutor for respondent/State.

This is **first** bail application u/S.439 Cr.P.C filed by the applicant for grant of bail.

Applicant has been arrested on 9.3.22 by Police Station, Gulabganj District Vidisha in connection with Istagasa No.1/22 for the offence punishable under Sections 379, 411 of IPC.

As per prosecution case, on 8.3.22 Police Personnel of Police Station Gulabganj District Vidisha alongwith force were doing checking at Burry Chauraha one unnumbered motorcycle Pulsar Black Colour came. On the suspicion, motorcycle was stopped. On seeing police personnel he tried to run away but with force, he could catchhold. On enquiry he narrated his name as Devendra. When documents were inquired, he was having no document regarding motorcycle. Besides this he could not justify the possession of motorcycle. Motorcycle was seized and he was arrested under Section 41 (1-4), 102 CrPC r/w 379 IPC. On Istagasa No. 01/22 under aforesaid offences was registered. From Narayan one motorcycle, from Veer Singh Lodhi one motorcycle, from Radheshyam one motorcycle and from present applicant one motorcycle was seized. Veer Singh, Narayan and Radheshyam were given notice

under Section 41(A) CrPC to appear before the Court on 21.3.22 at 11 am. Applicant accused was arrested on 9.3.22. till today no offence has been registered against him despite lapse of about 51 days.

It is submitted by learned counsel for the applicant that the applicant is innocent and he has falsely been implicated in the offence. Conclusion of trial will take time. He shall abide by all the directions and conditions which may be imposed by this Court. On such premises, learned counsel for the applicant prayed for bail.

Learned counsel for the State opposed the application and prayed for its rejection.

Looking to the aforesaid facts and circumstances of the case, without commenting upon the merits of the case, this Court is of the opinion that the application should be allowed and by allowing the application, it is ordered that if applicant furnishes bail bond of **Rs.25,000/- (Rupees Twenty Five thousand only) with one solvent surety** in the like amount to the satisfaction of the trial Court, he shall be released on bail.

He will present during trial before the trial Court on each and every date.

Application stands **allowed and disposed of.**

Bail ought to have been granted by the Court below.

This Court is having day to day experience that the Court Below without going into the merits of the case, blindly rejects the bail applications of accused. It is a matter of great concern that in these type of petty matters, litigants has to approach this Court,

despite Sessions Court are established all over the State to access the justice easily to the persons living in remote and deserted area. The Sessions Court and High Courts are vested with concurrent powers under Section 439 CrPC. To approach the High Court from remote places creates unnecessary financial burdan upon the litigants. This type of order passed by court below frustrates the very purpose of establishing Court of Sessions in all parts of the State. It is also pertinent to note that while deciding a bail application Court is not convicting or acquitting a person, only liberty is extended to the accused from custody, during trial with certain conditions.

Learned court below (Smt. Vandna Jain, IIIrd Additional Sessions Judge Vidisha) is advised to pass order in future after going through provisions of law and the evidence collected during investigation and not reject the bail application blindly.

Let a copy of this order be put up before the Portfolio Judge of District Vidisha for information.

Certified copy as per rules.

(Deepak Kumar Agarwal)
Judge