

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE VISHAL MISHRA
ON THE 21st OF FEBRUARY, 2022

MISC. CRIMINAL CASE No. 3153 of 2022

Between:-

SANJAY SINGH BAGHEL

.....PETITIONER

(BY SHRI Dr. Anuvad Shrivastava, Advocate)

AND

THE STATE OF MADHYA PRADESH THROUGH
POLICE STATION KOTWALI DISTRICT SHAHDOL
(MADHYA PRADESH)

.....RESPONDENTS

*(BY SHRI Sanjeev Singh, Panel Lawyer)
(Shri Yogesh Soni, Advocate for the objector)*

*This second application coming on for admission this day, the court
passed the following:*

ORDER

Heard on **I.A.No.3309/2022** an application for assisting the panel lawyer.

For the reasons mentioned in the application, the same is allowed.

Shri Yogesh Soni, learned counsel is permitted to assist the panel lawyer.

This is Second application under Section 439 of Cr.P.C. for grant of bail to the applicant. His first application was dismissed on merit vide order dated 29.11.2021 passed in M.Cr.C.No. 16043/2021.

The applicant is arrested on 22.02.2021 by Police Station Kotwali, District Shahdol (M.P.) in connection with Crime No.368 of 2015 registered in relation to the offence punishable under Sections 409, 420 & 34 of IPC.

The allegation against the present applicant is that he has cheated the complainant by misrepresentation. He is a registered broker in the share market. Some investments were made by the complainant and others through the present applicant in the share market. On asking for the payment, the cheques were issued by the applicant which were dishonoured. The present application has been filed

on the ground of delay in trial. It is argued that keeping the applicant in custody for a long period will amount to pre-trial conviction. There is virtually no progress in the trial. He is in custody since 22.02.2021, investigation is over in the matter and charge sheet has already been filed. No further custodial interrogation of the applicant is required. It is argued that he is a registered share broker having a DMAT account. The agreement were shown between the applicant and complainant and they with their own sweet will has agreed to deposit the amount through the applicant in the share market, therefore, it cannot be a case of cheating. It is submitted when there was loss in the share market, these F.I.R. has been registered. The cheques have been issued by the applicant which have been dishonoured, therefore, at the most, case under the Negotiable Instruments Act could have been registered against the applicant. He is ready to abide by all the terms and conditions that may be imposed by this Court while considering his bail application. The other co-accused have already been enlarged on bail.

Per contra, counsel appearing for the State as well as counsel appearing for the objector have vehemently opposed the application stating that the offence was registered in the year 2015 and applicant remained absconded for a considerable period of almost 7 years and with great difficulty he has been arrested. There is an involvement of more than 1.00 Crores of rupees in the case. The applicant showing himself to be a licenced and registered share broker has asked the complainant and others to make investment through him and they will earn great profit but no licence is available with the applicant. There is nothing in the case diary nor in the file, filed along with the present application to show that applicant is a registered share market broker. Even otherwise, if it is presumed that he is having a DMAT account in his name then the DMAT account will be for his own use only. He cannot make investment for others through DMAT account without there being any proper licence for running a share market. It is submitted that by a false play he has got the complainant and others to invest into the share market through him. It is further submitted that if he is enlarged on bail then there is every possibility that he will again flew away. The case of the other co-accused is entirely different from that of the present applicant. In such circumstances, no case for bail is made out.

Considering the overall facts and circumstances of the case and the absention period of the applicant, this Court is not inclined to allow this application at this stage.

The application is hereby **rejected**.

In view of the order passed by this Court on 14.2.2022, the S.H.O. Police Station Kotwali is present before this Court. A specific question was asked to him that whether charge-sheet is filed in the matter, he fairly submits that charge-sheet has filed in the matter. As far as registration of an F.I.R. for offences under Section 409, 420, 34 of IPC is concerned, a specific question was put to him that except the aforesaid offences whether any other offence and any other act regarding financial irregularities is made out against the present applicant or not. He fairly submits that other offences are also made out in the present case against the present applicant but as he has recently join the Police Station and has handed over the case diary recently, therefore, he will take all possible steps to get the other offences also registered against the present applicant with the permission of the trial Court. It is contended by him that the investigation was being carried out by the other Investigating Officers, therefore, he has no knowledge regarding the manner in which the investigation is being carried out by them. He has given a detailed particulars of the other Investigating Officers in the matter.

From the perusal of the documents and the case diary, it is apparently clear that this case is with respect to making huge investments in share market without their being any proper licence or approval from the government for the same. The same is with respect to embezzlement of a huge amount without proper authority of law.

In such circumstances, offences under the RBI Act etc. are clearly made out against the present applicant.

The aforesaid offences are not being registered from the very beginning itself and the matter was being taken up by the Investigating Officers in the matter whose names are as under as given:-

1. A.S.I., Shri M.P. Singh, Police Station Kotwali, Shahdol.
2. S.I., Shri Umashankar Yadav, Police Station Kotwali, Shahdol.

3. Inspector Kamendra Singh Karchuli, Police Station Kotwali, Shahdol.
4. Inspector, Shri Ravendra Dwivedi, Police Station Kotwali, Shahdol.
5. S.I., Shri M.P. Ahirwar, Police Station Kotwali, Shahdol.
6. Inspector, Shri Rajeshchandra Mishra, Police Station Kotwali, Shahdol.

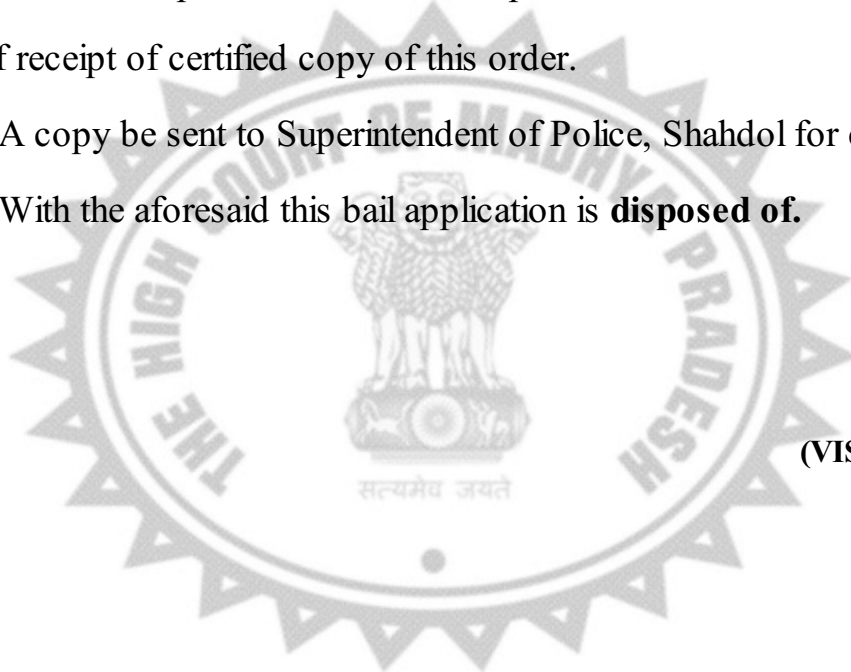
(As provided by Shri Ratnamber Prasad Shukla, S.H.O. Police Station Kotwali, District-Shahdol who is present in the Court today)

Let the matter be placed before the Superintendent of Police, Shahdol to look into the same and take appropriate action against the concerning delinquent employees who have not registered the case under the proper sections just to extend the benefits to the accused.

Let the compliance action taken report be submitted within 45 days from the date of receipt of certified copy of this order.

A copy be sent to Superintendent of Police, Shahdol for compliance.

With the aforesaid this bail application is **disposed of**.



(VISHAL MISHRA)
JUDGE