

**IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR**

**BEFORE**

**HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR**

**ON THE 25<sup>th</sup> OF JANUARY, 2024**

**MISC. CRIMINAL CASE No. 725 of 2024**

**BETWEEN:-**

**MADAN MISHRA S/O SHRI LALARAM MISHRA, AGED  
ABOUT 30 YEARS, OCCUPATION: AGRICULTURIST,  
RESIDENT OF VILLAGE UDGAWA POLICE STATION  
JIGNA DISTRICT DATIA (MADHYA PRADESH)**

**.....APPLICANT**

***(SHRI RAJIV BUDHOLIYA - ADVOCATE FOR THE APPLICANT)***

**AND**

**THE STATE OF MADHYA PRADESH INCHARGE POLICE  
STATION THROUGH POLICE STATION CIVIL LINE  
DISTRICT DATIA (MADHYA PRADESH)**

**.....RESPONDENT**

***(SHRI V.P.S. TOMAR - PANEL LAWYER FOR THE RESPONDENT-STATE)***

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

**ORDER**

This first bail application has been filed by applicant under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail in connection with Crime No.357/2022 registered at Police Station Civil Line, District Datia (M.P.) for offence punishable under Sections 394/34 of the IPC and Section 11/13 of the MPDVPK Act. The applicant is in judicial custody since 13/04/2023.

As per the case of prosecution, Jitendra s/o Dwarika Prasad reported to PS Civil Line Datia on 24/09/2022 that on the same day around 7.30 in the afternoon he was going to Datia on his motorcycle. As he reached near Khabera

temple, one unknown person requested for lift. He permitted that person to ride the motorcycle. As they reached near Village Chaupara around 7.00 in the evening, two persons riding on motorcycle over took their motorcycle. One of the persons thrown chilly powder on his eyes. He and Nandram could not see due to burning in eyes. The unknown assailants snatched his bag containing Rs. 1,50,000/- and other papers and fled away. He informed Rinku and police and came to report. On such allegations, Police Station Civil Line, District Datia registered FIR at Crime No. 357/2022 for the offence punishable under Sections 392 and 34 of the IPC and Section 11,13 of the MPDVPK Act against unknown offenders. His statement under 27 of the Evidence Act was recorded. Cash of Rs. 5000/- was recovered at his instance. Thereafter, applicant was arrested on 13/04/2023, he is in custody ever since. On completion of investigation, final report was submitted on 08/06/2023.

Learned Counsel for the applicant, in addition to the grounds mentioned in the application, submits that the applicant has falsely been implicated in this matter. No test identification parade was conducted. No article connecting with the alleged offence was seized during investigation. Therefore, there is no evidence against the applicant in this matter. Applicant is an agriculturist by profession. Applicant is in custody for the last nine months. There is no likelihood of tampering with evidence by the applicant. Jail incarceration is causing great hardship to the applicant. Trial would take time to conclude. Therefore, applicant may be extended the benefit of bail.

*Per contra*, learned Counsel for the State opposes the bail application and cites criminal history of 18 cases against the applicant.

In reply, learned counsel for the applicant submits that applicant was

involved in all pending matters of year 2022 wherein the assailants could not be traced. Applicant has never been convicted in any matter. Learned counsel further submits that no incriminating evidence is available against the applicant in the present matter. Therefore, merely on the basis of criminal history, he may not be denied to extend the benefit of bail.

Heard learned counsel for the parties and perused the case diary.

Considering the arguments advanced by both the parties and overall circumstances of the case, but without commenting on merits of the case, this Court is inclined to release the applicant on bail. Thus, the application is allowed.

Accordingly, it is directed that **applicant MADAN MISHRA** shall be released on bail in relation to Crime No.357/2022 registered at Police Station Civil Line, District Datia (M.P.) for offence punishable under Sections 394/34 of the IPC and Section 11/13 of the MPDVPK Act , upon furnishing a personal bond in the sum of **Rs. 1,00,000/- (Rs. One Lac Only)** with two sureties each of **Rs. 50,000/- (Rs. Fifty Thousand only)** to the satisfaction of the Trial Court, for compliance with the following conditions, : **(For the sake of convenience of understanding by accused and surety, the conditions of bail are also reproduced in Hindi as under):-**

(1) Applicant shall remain present on every date of hearing as may he directed by the concerned court;

(1) आवेदक संबंधित न्यायालय के निर्देशानुसार सुनवाई की प्रत्येक तिथि पर उपस्थित रहेगा।

(2) Applicant shall not commit or get involved in any offence of similar nature;

(2) आवेदक समान प्रकृति का कोई अपराध नहीं करेगा या उसमें सम्मिलित नहीं होगा।

(3) Applicant shall not directly or indirectly make any inducement, threat

or promise to any person acquainted with the facts of the case so as to dissuade them/him/her from disclosing such facts to the Court or to the police officer;

(3) आवेदक प्रकरण के तथ्यों से परिचित किसी व्यक्ति को प्रत्यक्ष या अप्रत्यक्ष रूप से प्रलोभन, धमकी या वचन नहीं देगा, जिससे ऐसा व्यक्ति ऐसे तथ्यों को न्यायालय या पुलिस अधिकारी को प्रकट करने से निवारित हो।

(4) Applicant shall not directly or indirectly attempt to temper with the evidence or allure, pressurize or threaten the witness;

(4) आवेदक प्रत्यक्ष या अप्रत्यक्ष रूप से साक्ष्य के साथ छेड़छाड़ करने का या साक्षी या साक्षियों को बहलाने-फुसलाने, दबाव डालने या धमकाने का प्रयास नहीं करेगा।

(5) During trial, the applicant shall ensure due compliance of provisions of Section 309 of Cr.P.C. regarding examination of witnesses in attendance;

(5) विचारण के दौरान, उपस्थित गवाहों से परीक्षण के संबंध में आवेदक धारा 309 दं.प्र.सं. के प्रावधानों का उचित अनुपालन सुनिश्चित करेगा।

This order shall be effective till the end of trial. However, in case of breach of any of the precondition of bail, the Trial Court may consider on merit cancellation of bail without any impediment of this order.

**The trial Court shall get these conditions reproduced on the personal bond by the accused and on surety bond by the surety concerned, if any of them is unable to write, the scribe shall certify that he had explained the conditions to the concerned accused or the surety.**

C.C. as per rules.

**(SANJEEV S KALGAONKAR)**  
**JUDGE**

Prachi

