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

**BEFORE
HON'BLE SMT. JUSTICE SUNITA YADAV
ON THE 23rd OF JANUARY, 2024**

MISC. CRIMINAL CASE No. 1040 of 2024

BETWEEN:-

**POSAM SINGH GURJAR S/O SHRI CHANDRABHAN
SINGH GURJAR, AGED ABOUT 25 YEARS, VILLAGE
BHARROLI POLICE STATION INDERGARH DISTRICT
DATIA (MADHYA PRADESH)**

.....APPLICANT

(MR. GAURAV MISHRA - ADVOCATE FOR THE APPLICANT)

AND

**THE STATE OF MADHYA PRADESH INCHARGE POLICE
STATION THROUGH POLICE STATION PANDOKHAR
DISTRICT DATIA(M.P. (MADHYA PRADESH)**

.....RESPONDENT

***(MS. KALPANA PARMAR - PANEL LAWYER FOR THE RESPONDENT -
STATE AND MR. SHASHI KUMAR KHARE - ADVOCATE FOR THE
COMPLAINANT)***

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

ORDER

This is the first application filed by the applicant under Section 439 of the Cr.P.C. for grant of bail relating to FIR No.112 of 2023 registered at Police Station Pandokhar, District Datia (M.P.) for the offence under Sections 307 and 34 of IPC.

Learned counsel for the applicant argued that the applicant is innocent and has been falsely implicated on account of the fact that earlier case under Section 302 of IPC was registered against the complainant Dharmendra on the

report of Shankar Singh Gurjar for murder of Sandeep Gurjar in which present applicant - accused is an eye-witness and to stop him to depose before the Court, this false FIR has been lodged. Earlier, a case under Section 376 of IPC was also registered upon the report of Shiva Khan, however, in that case, Final Report was filed by the police on account of false implication of present applicant. It is further argued that allegedly present applicant fired a gunshot on Dharmendra, however, it did not hit Dharmendra. Further argument is that applicant is in custody since 25.11.2023. After conclusion of investigation, charge-sheet has already been filed, therefore, there is no requirement of further custodial interrogation of the applicant. He is the permanent resident of District Datia (M.P.) and there is no possibility of his absconsion or tampering with the prosecution evidence. On these grounds, he prays for grant of bail to the applicant.

On the other hand, learned State counsel as well as learned counsel for the complainant opposed the application citing the criminal history of the applicant and prayed for its rejection.

Heard learned counsel for the rival parties and perused the case diary available on record.

Considering the facts and circumstances of the case, but without expressing any opinion on merits of the case, this application is allowed and it is directed that the applicant be released on bail on furnishing a personal bond in the sum of **Rs.1,00,000/- (Rupees One Lakh only)** with one solvent surety in the like amount to the satisfaction of the trial Court/Committal Court.

This order will remain operative subject to compliance of the following conditions by the applicant:-

- 1) The applicant will comply with all the terms and conditions of the

bond executed by him/her;

2) The applicant will cooperate in the investigation/trial, as the case may be;

3) The applicant will not indulge himself/herself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;

4) The applicant shall not commit any offence during pendency of the trial, failing which, this bail order shall stand cancelled automatically without further reference to the Bench;

5) The applicant will not seek unnecessary adjournments during the trial;

6) The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be; and

7) The applicant shall not move in the vicinity of complainant and shall not be a source of embarrassment or harassment to the complainant party in any manner.

Learned State counsel is directed to send an e-copy of this order to the Station House Officer of the concerned Police Station for information and necessary action.

E- copy of this order be sent to the trial Court concerned for compliance, if possible, by the office of this Court.

Certified copy as per rules.

(SUNITA YADAV)

AKS

