IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SMT. JUSTICE SUNITA YADAV

ON THE 1st OF FEBRUARY, 2024

MISC. CRIMINAL CASE No. 1253 of 2024

BETWEEN:-

MALKHO/MALKO @ MALKHAN S/O SHRI BABU SINGH, AGED ABOUT 19 YEARS, R/O GRAM RAMBHAJAN KA PURA TEH AND DISTRICT MORENA (MADHYA PRADESH)

.....APPLICANT

(BY SHRI RAVI DWIVEDI WITH SHRI ATUL GUPTA - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THROUGH ARAKSHI KENDRA CIVIL LINE DISTRICT MORENA (MADHYA PRADESH)

.....RESPONDENT

(SHRI RAJEEV UPADHYAY - PUBLIC PROSECUTOR FOR THE STATE AND SHRI MADHUKAR KULSHRESTHA - ADVOCATE FOR THE RESPONDENT [COMP].)

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

ORDER

This is **first** application filed by the applicant under Section 439 of the Cr.P.C. for grant of bail relating to Crime No. 1089 of 2023 registered at Police Station Civil Line, District Morena (M.P.) for the offence under Sections 363, 366-A, 302 & 34 of IPC.

Learned counsel for the applicant argued that the applicant is innocent and has been falsely implicated which is evident from the fact that on 18.09.2023 when the report about missing of deceased was lodged by her

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brother - Gabda, there was no mentioned about the fact that he saw the present applicant/accused alongwith co-accused Pappan in the field of millet (*Bajra*) and also heard the sound of gunshot fire. Even in his statement u/S.161 of Cr.P.C., Gabda has not mentioned the said fact, however, he improvised his version on the additional statement recorded on 24.09.2023 which makes his statement doubtful. Further submission is that as per prosecution story, the deceased was having relationship with Pappan who provided her a mobile phone and as per the statement of Guddi, mother of Pappan, his son confessed before her that it was he who shot gunfire on deceased - Chala. Pappan has also committed suicide. Under these circumstances, so also in the light of the fact that when the applicant is in custody since 19.10.2023 and charge-sheet has been filed after completion of investigation, therefore, further custodial interrogation of the applicant/accused is no more required and he is entitled to get benefit of bail. The applicant has no criminal antecedents and he is permanent resident of District Morena (M.P.) and there is no possibility of his absconding or tempering with prosecution case. On these grounds, he prays for grant of bail to the applicants.

Per contra, learned counsel for the State as well as counsel for the complainant have vehemently opposed the bail application 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.100,000/- (Rupees One Lakh Only) with two solvent**

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sureties 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;

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

3) The applicant will not indulge himself 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 an offence similar to the offence of which he/she is accused;

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

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

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)
JUDGE

vpn

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