IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SMT. JUSTICE SUNITA YADAV

ON THE 2nd OF FEBRUARY, 2024

MISC. CRIMINAL CASE No. 4651 of 2024

BETWEEN:-

KAMTA PRASAD S/O RAM SINGH MALI (SAINI), AGED 28 YEARS, R/O HAZIPUR WARD, SIRONJ, TEHSIL SIRONJ, DISTRICT VIDISHA (MADHYA PRADESH)

.....APPLICANT

(BY SHRI DEVANSH MISHRA - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THROUGH POLICE STATION CITY BASODA DISTRICT VIDISHA (MADHYA PRADESH)

.....RESPONDENT

(BY MS. KALPANA PARMAR - PANEL LAWYER)

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

ORDER

I.A. No.2486/2024, an application for taking documents on record is taken up, considered and allowed for the reasons mentioned therein.

Documents are taken on record.

This is **third** application filed by the applicant under Section 439 of the Cr.P.C. for grant of bail relating to Crime No. 212 of 2023 registered at Police Station City Basoda, District Vidisha (M.P.) for the offence under Sections 302, 307 of IPC and Section 25 of Arms Act.

Second application of the applicant was dismissed as withdrawn with liberty to file afresh after examination of all the material witnesses in

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M.Cr.C.No.49291 of 2023 vide order dated 27.12.2023.

Learned counsel for the applicant/accused argued that the applicant is innocent and has been falsely implicated. After order dated 27.12.2023, the remaining eye-witnesses namely Jitendra Sharma alias Rinku, Brajesh Baghel and Hukum Singh Pal have been examined, however they have not supported the case of the prosecution and turned hostile. In support of his arguments, he filed the statements of the prosecution witnesses PW-1 Vinod Sharma, PW-2 Neeraj Hazari, PW-3 Rahul Yadav, PW4 - Hukum Singh Pal, PW-5 Jitendra Sharma alias Rinku and PW-6 Brajesh Baghel. The above statements indicate that the eye witnesses namely Jitendra Sharma alias Rinku, Brajesh Baghel and Hukum Singh Pal have not supported the case of the prosecution and turned hostile, therefore, the entire prosecution story becomes doubtful. The applicant is in custody since 06.05.2023 and his custodial interrogation is not required anymore. He is permanent resident of District Vidisha (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 applicant.

Per contra, learned Panel Lawyer for the respondent/State 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.50,000/- (Rupees Fifty Thousand Only) with one solvent surety** in the like amount to the satisfaction of the trial Court/committal Court.

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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

AK/-

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