IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

ON THE 5th OF FEBRUARY, 2024

MISC. CRIMINAL CASE No. 4802 of 2024

BETWEEN:-

1. **ASHU@RASHID KHAN S/O SHRI HAMEED KHAN, AGED ABOUT 28 YEARS, ATAL NEHRU NAGAR, BHANPUR BHOPAL (M.P.) (MADHYA PRADESH)**

2. **SHAKIR KHA S/O SHRI HAMEED KHAN, AGED ABOUT 34 YEARS, R/O HAJIPUR, SIROJ, VIDISHA (MADHYA PRADESH)**

.....APPLICANTS

(BY SHRI M.S.YADAV - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THROUGH POLICE STATION SIRONJ DISTRICT VIDISHA (M.P.) (MADHYA PRADESH)

.....RESPONDENT

(BY SHRI RAJEEV UPADHYAY - GOVERNMENT ADVOCATE)

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

ORDER

1. The applicants have filed this first bail application u/S.439 Cr.P.C for grant of bail. Applicants have been arrested on 25.02.2022 by Police Station-Sironj, District Vidisha in connection with Crime No.92/2022 registered for offence punishable under Sections 147, 148, 149 and 302 of IPC.

2. It is the submission of learned counsel for the applicants that applicants have been falsely implicated in the case and are suffering confinement since 25.02.2022. It is further submitted that material prosecution witnesses

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including eye witnesses have been examined. Therefore, chance of tampering with evidence/witnesses is remote. Applicants do not bear any criminal record. Some of the witnesses have not supported the story of the prosecution and have declared hostile. Even their role is not established by the prosecution. Considering the period of custody and status of trial, their case may be considered for bail. It is further submitted counsel for the applicants that co-accused Nadeem Khan has been extended benefit of bail vide order dated 25.01.2024 vide M.Cr.C. No.2585/2023, therefore, he seeks parity. Applicants undertake to cooperate in trial/investigation and would abide by all the terms and conditions as imposed by this Court. They further undertake not to move in the vicinity of complainant side and shall not be a source of embarrassment and harassment to them in any manner. Under these grounds, he prayed for bail.

3. Learned counsel for the respondent/State opposed the prayer and prayed for dismissal of application.

4. Heard learned counsel for the parties at length and perused the case diary.

5. Considering the submissions advanced by the learned counsel for the parties and status of trial as well as the fact that applicants do not bear any criminal record and maintaining parity, but without commenting on the merits of the case, the application is **allowed**. It is hereby directed that the applicants shall be released on bail on their furnishing personal bond of **Rs.50,000/- (Rupees Fifty Thousand Only) each** with **two solvent sureties** in the like amount to the satisfaction of trial Court.

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

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(i) The applicants will comply with all the terms and conditions of the bond executed by them;

(ii) The applicants will co-operate in the investigation/trial, as the case may be;

(iii) The applicants will not indulge themselves in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to the Police Officer, as the case may be;

(iv) The applicants shall not commit an offence similar to the offence, of which they are accused;

(v) The applicants will not seek unnecessary adjournments during the trial;

(vi) The applicants will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be;

(vii) **The applicant shall mark their presence on first Sunday of every month before the concerned police station between 10:00 am to 2:30 pm till conclusion of trial.**

(viii) Applicants shall not move in the vicinity of the complainant and shall not move in the village where the complainant resides till conclusion of trial so that complainant and remaining prosecution witnesses (family members of complainant) shall freely depose before the trial court.

7. Application stands **allowed** and **disposed of**.

8. A copy of this order be sent to the trial Court concerned for compliance and information.

9. Certified Copy as per rules.

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(ANAND PATHAK)
JUDGE

Ashish*

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