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

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

ON THE 4th OF JANUARY, 2024

MISC. CRIMINAL CASE No. 55219 of 2023

BETWEEN:-

**RAMPAL S/O SHIVLAL BHEEL, AGED ABOUT 37 YEARS,
GRAM PIPLYAMOTI THANA CHACHODA DISTRICT
GUNA (M.P.) (MADHYA PRADESH)**

.....APPLICANT

**(SHRI SATYENDRA SINGH RAJPUT, LEARNED COUNSEL FOR THE
PETITIONER),**

AND

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

.....RESPONDENTS

(SHRI PRAMOD KUMAR PACHORI, LEARNED PP),
.....

*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.271/2023 registered at Police Station Chachoda Distt.Guna (M.P.) for the offence punishable under Section 302/34 of IPC.

As per the case of prosecution, Parmal Singh Bheel reported to PS Chachoda Distt. Guna that on 10.06.2023 his brother Babulal Bheel had left home along with two unknown persons on their motorcycle. On 11.06.2023 around 7 in the morning, dead body of Babulal was found in his agricultural

field. On such intimation, Unnatural Death Intimation No.42 of 2023 was registered at PS Chachoda. Dead body of Babulal was forwarded for Postmortem examination. The Medical officer opined that Babulal had died due to cardio-respiratory failure and cause of death can be given after visceral examination. Approximate time of death was opined to be 12 hours prior to the Postmortem examination. Statements of family members and other witnesses were recorded U/s 174 of Cr.P.C. Family members of Babulal stated that two unknown persons had taken Babulal on Motorcycle. On 28.10.2023, daughter of deceased Babulal namely Santosh and daughter-in-law of deceased Babulal namely Shakariya Bai stated that Rampal (applicant) and Tufan had taken Babulal on their Motorcycle around 7 in the evening on 10.06.2023. Tufan Singh had animosity with Babulal over purchase of one plot. But later, they reconciled their dispute. On such allegations, applicant Rampal and Tufan Singh were arrested on 29.10.2023. Statements of Rampal and Tufan were recorded U/s 27 of the Evidence Act wherein, they informed that they had taken Babulal on their Motorcycle. Motorcycle No. MP-08-MY-1343 was seized at the instance of Rampal and Tufan Singh. Next day i.e. on 30.10.2023, witnesses Chain Singh and Lal Singh had stated that they were going to village Hinoti. On way to Hinoti, at the agricultural field of Jagadyo, they saw Tufan and Rampal assaulting Babulal around 9-10 PM on 10.06.2023. On completion of investigation, final report was submitted on 03.01.2024.

Learned counsel for the applicant, in addition to the grounds mentioned in the application, submits that the applicant has falsely been implicated in the matter. The applicant is neighbour of deceased Babulal. All the family members are well acquainted with the applicant. Initially, in death intimation and the statement recorded U/s 174 of Cr.P.C, none of the witness had deposed that

applicant Rampal had taken Babulal along with him on Motorcycle. After four months and 10 days later, daughter-in-law Shakariya and daughter Santosh Bai, for the first time, had stated that the applicant had taken Babulal on his Motorcycle in the evening. His dead body was recovered next day. Learned counsel referring to the statements of Chain Singh and Lalsingh further contends that statements of these witnesses were recorded on 30.10.2023 after delay of four month and 10 days without any explanation of delay. No incriminating article is recovered at the instance of the applicant. It is a case of circumstantial evidence. Prosecution is based merely on the evidence of last seen together. Evidence with regard to last seen of the deceased with the applicant is doubtful. Learned counsel further referring to the opinion of Medical Officer, Chachoda given on 14.06.2023 submits that injuries found on the abdomen and back of deceased were opined to be postmortem injuries and the Medical officer had opined that Babulal died due to cardio-respiratory failure. Learned counsel further submits that the applicant is agriculturist. He has family to look after. No criminal antecedent is reported against the applicant. He is permanent resident of District Guna. There is no likelihood of his absconsion or tampering with the evidence as both the parties belong to the same socio-economic status. Applicant is sole bread earner of the family. The jail incarceration is causing hardship to the family of applicant. No further custodial interrogation is required in the matter. The trial would take time to complete. Therefore, the applicant may be extended the benefit of bail.

Per contra, learned counsel for the respondent/State opposes the bail application on the ground of gravity of alleged offence.

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 **Rampal** shall be released on bail in connection with Crime No.271/2023 registered at Police Station Chachoda Distt.Guna (M.P.) for an offence punishable under sections 302/34 of IPC, upon furnishing a personal bond in the sum of **Rs. 1,00,000/- (Rs. One lac Only)** with one solvent surety of the same amount 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 be 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 applicants 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 merits 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

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