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

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

ON THE 29th OF JANUARY, 2024

MISC. CRIMINAL CASE No. 56749 of 2023

BETWEEN:-

**RAJPAL GURJAR S/O SH RAMESHWAR SINGH GURJAR,
AGED 25 YEARS, OCCUPATION: AGRICULTURIST R/O
VILLAGE BHAWAR PURA DISTRICT GWALIOR
(MADHYA PRADESH)**

.....APPLICANT

(SHRI PRAKHAR DHENGULA- ADVOCATE)

AND

**STATE OF MADHYA PRADESH THROUGH POLICE
STATION SUBHASPURA DISTRICT SHIVPURI (MADHYA
PRADESH)**

.....RESPONDENT

(SHRI DHEERAJ BUDHOLIYA- PANEL LAWYER)

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

ORDER

This third 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.58 of 2023 registered at Police Station Subhaspura, District Shivpuri (M.P.) for offence punishable under Sections 307, 195 read with Section 120-B and 34 of IPC and 25/27 of Arms Act. The applicant is in judicial custody since 01.07.2023. First bail application was dismissed on merit by the Coordinate Bench of this Court *vide* order dated 26.07.2023 passed in MCRC No.32528 of 2023. Second application was dismissed as withdrawn by this Court *vide* order

dated 11.10.2023 passed in MCRC No.45592 of 2023.

As per the case of prosecution, Sonu Sharma admitted at Trauma Centre, District Hospital Shivpuri reported to Sub Inspector Suneel Singh Rajpoot of PS Subhashpura, District Shivpuri that on 13/04/2023 around 7'O clock in the evening, he was going to Patara on his motorcycle. As he reached on AB road, one Wagon R car intercepted him. As he stopped his motorcycle, Pushpraj and Kuldeep armed with firearm boarded from the car. Pushpraj fired on him with intention to kill him. The pellets from firearm injured his left ankle and left foot. Pushpraj, Kuldeep, Vinod and Santosh assaulted him with kicks and fists. He informed his brother- Monu on mobile phone. Monu came on the spot of incident and brought him to District Hospital, Shivpuri by 108 ambulance. On such allegations, Police Station Subhashupura, District Shivpuri registered FIR at Crime No. 58/2023 for offence punishable under Sections 307 read with Section 34 of IPC. During investigation, it was found that Sonu Sharma in conspiracy with Monu sharma, Arjun Sharma, Rajpal Gurjar (present applicant), Monu Bhadoriya and Lokendra Gurjar has lodged this false FIR to implicate Advocate- Vinod Dhakad and his family members in a false case so as to take possession of his land. It was revealed that in furtherance of conspiracy, Rajpal had fired on Sonu Sharma to implicate Pushpraj and associates. Applicant was arrested on 01.07.2023. Statements of Lokendra Gurjar, Sonu Sharma, Monu Sharma and Rajpal were recorded under Section 27 of the Evidence Act. Relevant seizures were made. One country made gun was recovered from possession of Rajpal Gurjar (present applicant). Call details report was requisitioned. The offence punishable under Sections 195 and 120-B of the IPC and Sections 25/27 of the Arms Act was added against Rajpal (present applicant) and co-accused Sonu Sharma, Monu Sharma, Arjun Sharma

and Lokendra. Final report was submitted on 31.10.2023.

Learned counsel for the applicant, in addition to the grounds mentioned in the application, submits that applicant has been falsely implicated in this matter merely on the basis of statements of co-accused recorded under Section 27 of Evidence Act. No offence of conspiracy is made out against the applicant. Applicant is aged around 25 years. He is Labourer by profession and is sole bread earner of the family, therefore, there is no likelihood of his absconding leaving family and home. There is no likelihood of tampering with the evidence by the applicant. No custodial interrogation is required in the matter. Jail incarceration is causing hardship to the applicant. The trial would take time to complete. All the co-accused have been extended benefit of bail by the Trial Court and Monu Bhadoriya has been extended benefit of anticipatory bail by this Court *vide* order dated 20.12.2023 passed in MCRC No.55849/2023. Therefore, the applicant may be extended the benefit of bail

Per contra, learned counsel for the State opposes the bail application citing criminal history of two cases against the applicant.

In reply, learned counsel for the applicant submits that one of the case does not relate to applicant and in other case, he was granted bail. He has never been convicted.

Per contra, learned counsel for 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 Rajpal Gurjar** shall be released on bail in relation to Crime No.58/2023 for offence punishable under Sections 307, 195 read with Section 120-B and 34 of IPC and 25/27 of Arms Act, upon furnishing a personal bond in the sum of **Rs.1,00,000/- (Rupees One Lac Only) with two sureties each of Rs. 50,000/- (Rs. Fifty Thousand Only)** with one solvent surety 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 he 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 merit 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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