IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

ON THE 30th OF JANUARY, 2024

MISC. CRIMINAL CASE No. 57788 of 2023

BETWEEN:-

SHAILENDRA RAJPUT S/O SHRI VEDRAM SINGH, AGE 35 YEARS, RESIDENT OF GRAM AMAYAN POLICE STATION AMAYAN DISTRICT BHIND (MADHYA PRADESH)

.....APPLICANT

(SHRI ATUL GUPTA- ADVOCATE FOR APPLICANT)

AND

THE STATE OF MADHYA PRADESH THROUGH POLICE STATION AMAYAN DISTRICT BHIND (MADHYA PRADESH)

.....RESPONDENT

(SHRI DHEERAJ BUDHOLIYA- PANEL LAWYER FOR RESPONDENT-STATE)

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.122 of 2022, registered at Police Station Amayan, District Bhind (M.P.) for offences punishable under Sections 307, 323, 294, 506, 336 read with Section 34 of IPC. Applicant is in judicial custody since 13-09-2023.

As per *Dehati Nalishi,* Deependra Singh alias Deepu Rajput admitted at JA Hospital, Gwalior reported to ASI Rajendra Kumar of PS Amayan, District Bhind that on 17-12-2022 around 10:45 in the morning, he met Anuj Baghel near

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bus-stand Amayan and asked for outstanding payment of Rs.35,000/-. Anuj started abusing him in filthy language and called Shailendra Rajput(applicant), Shivendra Rajput and Vedram. Shailendra was armed with 12 bore gun and Shivendra was armed with country-made gun (katta). Vedram assaulted on his nose with butt of Katta. Anuj threw stone at him. He sustained injuries. Shivendra and Shailendra fired on him with firearm. He sustained injury on his head. On such allegations, PS Amayan, District Bhind registered FIR at Crime No. 122 of 2022 for offence punishable under Sections 307, 323, 294, 506, 336 read with Section 34 of IPC against Shailendra Rajput (applicant), Shivendra Singh Rajput, Anuj Baghel and Vedram Rajput. Deependra alias Deepu was forwarded for medico-legal examination. During treatment, two metallic foreign bodies were recovered from punctured wound at parietal region of Deependra alias Deepu. These injuries were opined to be grievous and life threatening. Statements of witnesses were recorded. Applicant Shailendra Rajput was arrested on 13-09-2023, he is in custody ever since. On completion of investigation, Final Report was submitted on 07-12-2023.

Learned Counsel for the applicant, in addition to the grounds mentioned in the application, submits that the applicant is falsely implicated in this matter. Referring to FIR in Cross-Case at Crime No.121 of 2022, PS Mayana, learned Counsel submits that complainant Deependra alias Deepu along with Ranjeet Singh had assaulted Vedram, father of the applicant with farsa and *Dhariya*. Vedram sustained grievous injury on his head. As applicant tried to rescue his father, he was also assaulted by the complainant. He sustained grievous injury on his head. Learned Counsel referring to medical report of applicant Shailendra Rajput, submits that applicant has sustained incised wound on his head, which

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was later found to be fracture of outer table of skull of frontal area. Learned Counsel further contends that father of complainant Deependra alias Deepu Singh had fired in air, in fact that fire in air has caused injury on head of complainant Deependra alias Deepu Singh. Learned Counsel contends that minor scuffle over demand of money has been aggravated into the quarrel wherein both the parties have sustained injuries. Complainant and his associates were aggressors. All the accused in cross-case have been extended the benefit of bail. Co-accused Vedram Singh has also been been granted bail by coordinate Bench of this Court vide order dated 21st of April, 2023 passed in MCRC No. 14260 of 2023. There is no likelihood of tampering with evidence as both the parties belong to same socio-economic status. There is no likelihood of absconsion of applicant leaving his family and home. Trial would take time to conclude. Therefore, applicant may be extended the benefit of bail.

Per contra, learned counsel for the State opposes the bail application and cites criminal history of four cases against the applicant.

In reply, learned counsel for the applicant, referring to the judgment dated 14th July, 2023 passed by trial Court in Sessions Trial No.300051 of 2014 and ST No.300008 of 2015, submits that applicant stands acquitted with regard to alleged offence of dacoity in connection with Crime No.54 of 2014 and Crime No.73 of 2014. Rest of other matters are pending for trial wherein, applicant has been extended benefit of bail.

Heard learned counsel for the parties and perused case diary of Crime No.122 of 2022 and cross-case diary of Crime No.121 of 2022.

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

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allowed.

Accordingly, it is directed that **applicant- SHAILENDRA RAJPUT** shall be released on bail in relation to Crime No.122 of 2022 registered at Police Station Amayan, District Bhind (M.P.) for offence punishable under Sections 307, 323, 294, 506, 336 read with Section 34 of IPC. upon furnishing a personal bond in the sum of **Rs.1,00,000/- (Rupees one lac only)** with two sureties of **Rs.50,000**/- each 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 tamper with the evidence or allure, pressurize or threaten the witness;

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(4) आवेदक प्रत्यक्ष या अप्रत्यक्ष रूप से साक्ष्य के साथ छेडछाड करने का या साक्षी या साक्षियों को बहलाने–फुसलाने, दबाव डालने या धमकाने का प्रयास नहीं करेगा।

(5) During trial, the applicant 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

MKB

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