IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA

ON THE 2nd OF FEBRUARY, 2024

MISC. CRIMINAL CASE No. 2723 of 2024

BETWEEN:-

RAKESH S/O SIDDHU BHEEL, AGED ABOUT 22 YEARS, OCCUPATION: LABOR VILLAGE CHIKHLI, TEHSIL MHOW , SIMROL DIST. INDORE (MADHYA PRADESH)

.....APPLICANT

(BY SHRI VISHAL BAHETI - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THROUGH PS. SIMROL INDORE (MADHYA PRADESH)

.....RESPONDENT

(BY SHRI SAGAR MULEY - P.L.)

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

ORDER

This is first application under section 439 Cr.P.C. for grant of bail in connection with crime No. 102/2021 registered at P.S. Simrol, Indore for the offence under sections 147, 148, 323 r/w 149, 302 and 302 r/w 149 of IPC..

As per prosecution story, the applicant along with other co-accused persons constituted unlawful assembly and assaulted the complainant and his father Raju. He succumbed to death.

3. Counsel for the applicant submits that as per prosecution story, the main allegation is against Umrao who attacked the father of complainant by axe. Against the applicant the allegation is that he was present on the spot armed

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with lathi. It is further stated that son of the deceased, PW-1 Lakhan has turned hostile.

4. Counsel for the State opposed the prayer mainly on the ground that offence under section 302 IPC is registered with the aid of section 149 IPC. It is alleged that applicant was armed with lathi. He has also actively participated in the offence. There are 5 criminal cases registered against the applicant apart from this case under IPC..

5. Upon perusual of the statement of PW-1, Lakhan who is son of deceased, it is evident that he had made specific allegation that all the accused persons have beaten him and his father. Though he was declared hostile to some extent and leading questions were asked in which he has specific stated that Umrao along with other co-accused persons have beaten his father.

6. Considering the allegation that applicant was armed with lathi and constituted unlawful assembly and lathi is alleged to have been seized from the applicant, no case for grant of bail is made out. M.Cr.C. is accordingly dismissed.

However, considering the custodial period, it is observed that trial court shall make all endeavours to expedite the trial.

(VIJAY KUMAR SHUKLA)
JUDGE

MK

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