IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

ON THE 2nd OF FEBRUARY, 2024

MISC. CRIMINAL CASE No. 4317 of 2024

BETWEEN:-

VIRENDRAPAL S/O SALIGRAMPAL, AGED ABOUT 70 YEARS, R/O. 2/5, SOUTHTUKOGANJ INDORE (MADHYA PRADESH)

.....APPLICANT

(BY SHRI SHISH JOSHI - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THROUGH POLICE STATION SONKACHH, DISTRICT DEWAS (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI ANENDRA SINGH PARIHAR - P.L. FOR STATE)

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

ORDER

1. Heard.

2. By this petition, under Section 482 of the Cr.P.C the petitioner has challenged the order dated 2/3/2023 passed by the trial Court whereby his prayer for return of the F.D. to him has been rejected.

3. The record indicates that earlier a Sessions Trial No.140/2023 was decided by judgment dated 09.09.2004 the Court of Additional Sessions Judge Sonkatch District Dewas (State of M.P. V/s. Mahendra Singh Tomar & Others) and the accused in that case namely Mahendra Singh and Kalu were acquitted and accused Ravi and Pintu were declared as absconding. No appeal against

Signature Not Verified
Signed by: SHAILESH MAHADEV SUKHDEVE
Signing time: 03-02-2024 15:08:28

the said judgment has been preferred by the State of M.P.. During the trial a vehicle was seized. After the judgment dated 9/9/2004 the petitioner preferred Criminal Revision No.620 of 2008 before this Court for release of the vehicle to him which was allowed and the vehicle was directed to be released in favour of the petitioner subject to his furnishing a fixed deposit in the sum of Rs.25,000/- before the trial Court which he did.

4. Thereafter the petitioner filed an application before the trial Court for release of the F.D. to him along with interest accrued thereon which has been rejected by the trial Court by the impugned order on the ground that the matter is still pending.

5. The original judgment of the trial Court shows that the incident is of the year 2002. The judgment was passed in year 2004 declaring two of the accused as absconding. Almost 20 years have elapsed since then and those accused are still stated to be absconding due to which the trial Court has recorded the finding that the matter is pending. For the failure on the part of the prosecution agency in arresting the absconding accused, the petitioner cannot be penalized. His F.D. cannot be retained in perpetuating even though interest thereupon is accruing. In the available facts and circumstances of the case, it would be just and proper to release the F.D. in favour of the petitioner.

6. As a result, the impugned order dated 2/3/2023 passed by the trial Court is set aside and the application preferred by the petitioner for release of the F.D. along with interest to him stands allowed.

7. The petition stands allowed and disposed off.

C.c. as per rules.

Signature Not Verified
Signed by: SHAILESH MAHADEV SUKHDEVE
Signing time: 03-02-2024 15:08:28

(PRANAY VERMA)
JUDGE

SS/-

Signature Not Verified
Signed by: SHAILESH MAHADEV SUKHDEVE
Signing time: 03-02-2024 15:08:28