IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRAKASH CHANDRA GUPTA

ON THE 5th OF FEBRUARY, 2024

MISC. CRIMINAL CASE No. 4969 of 2024

BETWEEN:-

DAULATRAM S/O SHRI GHASIRAM JI, AGED 60 YEARS, OCCUPATION: LABOR R/O VILLAGE KANVAN TEHSIL BADNAWAR DISTT. DHAR (MADHYA PRADESH)

.....APPLICANT

(BY SHRI MAKBOOL AHMAD MANSOORI - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THROUGH POLICE STATION BARAWADA DISTT. RATLAM (MADHYA PRADESH)

.....RESPONDENT/STATE

(BY SHRI HEMANT SHARMA - GOVT. ADVOCATE)

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

ORDER

Heard with the aid of case diary.

This is fourth application filed under Section 439 of Cr.P.C. for grant of bail to the applicant/accused in connection with FIR/Crime No.124/2023 dated - 18.05.2023 registered at Police Station - Barawada, District - Ratlam (M.P.) for commission of offence punishable under Section 304 of IPC, Section 6/9 of M.P. Govansh Vadh Pratisedh Adhiniyam read with 120-B of IPC, Section 11(d), 11(e) and 11(f) of Prevention of Cruelty to Animals Act read with 120-B of IPC and Section 3 of Prevention of Damage to Public Property Act, 1984.

2. The first and second application were dismissed as withdrawn vide

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order dated 01.12.2023 and 23.09.2023 passed in MCRCs No.50154/2023 and 35748/2023 respectively.

3. The third application was dismissed on merits vide order dated 08.06.2023 passed in MCRC No.23137/2023.

4. As per prosecution case, on 18.05.2023, at around 10 PM, the complainant Prakash Baghri alongwith Govind were standing in front of Naira Petrol Pump. Complainant's younger brother Bharat was going to his home from Dudhakhedi Maleni by motorcycle, at that time, a pick-up truck bearing registration No.MP-43-G-2284, being driven by co-accused Rakesh in a rash and negligent manner towards Jaora. The co-accused, while trying to overtake the motorcycle of Bharat, hit him, reason being narrow space while overtaking. Resultantly, Bharat crashed on ground and the pick up truck got overturned. The co-accused was well aware that this could be a probable consequence of such rash and negligent driving. After the incident, the driver of the vehicle fled away from the spot. The complainant party had seen the vehicle and found 7 calves with their legs tied with ropes without any fodder being taken to be slaughtered. Bharat died at the spot itself. The complainant had lodged report on 18.05.2023 at 08:54 AM at P/S Badawda, Ratlam. The police had seized the aforesaid truck and calves.

5. During investigation, owner and driver of the seized vehicle, Daulatram and co-accused Rakesh were arrested. On the basis of memorandum given by Daulatram recorded u/S 27 of the Indian Evidence Act, 1872, it was found that co-accused Raju @ Rajiv was also involved in the offence and he was piloting the aforesaid truck by alto car bearing registration No.MP-43-CB-4633 therefore, he was also arrested and his car was seized. Co-accused Vijay

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Solanki, Shubham Sharma, Lakhan Nath, Dharmendra, Suresh Banjara, Deepak, Jeetendra Sharma were also found to be involved in the offence and their vehicles bearing registration No.MP-19-GA-2560, MP-41-GA-2505, MP-09-GF-5824, MP-43-G-4441, MP-43-G-1769, MP-43-G-3911 and MP-43-G-2260, respectively were seized. The name of the co-accused Rakesh was implicated in this case on the basis of memorandum statement given by the present applicant Daulatram.

6. Learned counsel for the applicant submits that he has not committed the offence. He is innocent and has falsely been implicated in the case only on the ground that he is a registered owner of the offending vehicle. It is also submitted that at the time of the incident, he was not present at the spot. No legal evidence is available against the present applicant.

7. It is also submitted that after dismissal of the earlier bail applications of the applicant, eye witnesses of the incident Govind (PW-1) and his brother Prakash (PW-2) have been examined before the trial Court and they have not supported the prosecution case. It is also submitted that co-accused persons Rakesh, Raju @ Rajiv and Jitendra Sharma are granted bail by this Court vide orders dated 23.09.2023, 14.07.2023 and 04.08.2023 passed in MCRCs No.39973/2023, 26210/2023 and 31994/2023 respectively. Applicant is in custody since 18.05.2023. Trial will take considerable long time for its disposal. Therefore, in change in circumstances, it is prayed that the applicant be released on bail.

8. On other hand, counsel for the non-applicant/State has opposed the prayer and submitted that four criminal cases are pending against the applicant punishable under Prevention of Cruelty to Animals Act and M.P. Govansh Vadh Pratishedh Adhiniyam. Therefore, he is not entitled for bail.

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9. I have heard learned counsel for the parties, perused the case-diary.

10. Considering the facts and circumstances of the case trial is likely to take long time for its disposal, this Court is of the view that applicant deserves to be enlarged on bail, hence, without commenting on the merits of the case, the application is **allowed**.

11. It is directed that **applicant - DAULATRAM** shall be released on bail on his furnishing a personal bond for a sum of **Rs.50,000/- (Rupees Fifty thousand only)** alongwith one solvent surety in the like amount to the satisfaction of the concerned Court, for his appearance before the concerned Court regularly on all such dates as may be fixed in this regard during trial. It is further directed that applicant shall comply with the provisions of Section 437 (3) of Cr.P.C.

12. This order shall be effective till the end of trial but in case of bail jump, it shall become ineffective.

13. With the aforesaid, this application is allowed and stands disposed of.

Certified copy, as per Rules.

(PRAKASH CHANDRA GUPTA)
JUDGE

Shruti

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