IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE ANIL VERMA

ON THE 2nd OF FEBRUARY, 2024

MISC. CRIMINAL CASE No. 55647 of 2023

BETWEEN:-

OMPRAKASH S/O RADHESHYAM GAYRI, AGED ABOUT 32 YEARS, OCCUPATION: AGRICULTURIST, R/O: VILLAGE JAAVI, TEHSIL NEEMUCH, DIST. NEEMUCH (MADHYA PRADESH)

.....APPLICANT

(MR. ABHAY SARASWAT - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THROUGH POLICE STATION NEEMUCH CITY, DIST. NEEMUCH (MADHYA PRADESH)

.....RESPONDENT

(MS. VARSHA SINGH THAKUR - GOVERNMENT ADVOCATE)

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

ORDER

Applicant has filed this first bail application under Section 439 of the Code of Criminal Procedure, 1973 on behalf of the applicant for grant of regular bail relating to Crime No.288/2022 registered at P.S. Neemuch City, District Neemuch (M.P.) for commission of offence punishable under Sections 302, 325, 294, 323, 506 and 34 of IPC. He is in jail since 29.07.2022.

2. As per the prosecution story, on 06.07.2022, complainant Prabhulal lodged a dehati nalishi at P.S. Neemuch City by stating that his niece Maina was married with applicant Omprakash. During their wedlock, they blessed with two

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girl child, but due to matrimonial dispute between Maina and Omprakash, both the girl children were residing with their maternal grandfather Premchand in Village Thadod. Father of applicant Radheshyam called the complainant and told him to come to village Jaavi along with both the children to mediate and settle the dispute between the husband and wife. When complainant reached at the house of Radheshyam along with other persons, then accused applicant came out from his house and after seeing the complainant and both of his girl child, he started abusing the complainant. When complainant objected, then applicant went inside the house and came with an iron pipe and started inflicting injuries upon the complainant with iron pipe. In order to save his life, complainant anyhow managed to ran away from the spot and went to the house of his relative Lala Gayri. After sometime, accused persons namely Radheshyam and Gopal came there armed with wooden stick and started inflicting injuries upon the complainant. Some of the relatives came to intervene the dispute. Thereafter, all accused persons gave life threats and left the spot. After that, injured complainant was rushed to the hospital and during the treatment he succumbed to death on 23.07.2022. Accordingly, a case has been registered against the applicant.

3. Learned counsel for the applicant submits that applicant is innocent person and he has been falsely implicated in this matter. Applicant is in jail since 29.07.2022. All the 14 material witnesses have been examined before the trial Court. Deceased did not sustain any injury over the vital parts of the body and cause of death is septicemia, which has occurred due to lack or improper treatment. Applicant is a permanent resident of District Neemuch. Final conclusion of trial will take considerable long time. Under the above circumstances, prayer for grant of bail may be considered on such terms and

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conditions, as this Court deems fit and proper.

4. Per-contra, learned counsel for respondent/State opposes the bail application and prays for its rejection.

5. Perused the case diary as well as the impugned order of the court below.

6. Considering all the facts and circumstances of the case, arguments advanced by counsel for the parties, nature and gravity of allegation as also taking note of the fact that Rakesh (PW-6) is the son of deceased has been turned hostile before the trial Court; all the eye witnesses namely Lalaram (PW-12) and Chanchal (PW-10) also turned hostile before the trial Court and have not supported the case of prosecution; prosecution has examined as many as 14 witnesses and all of them have turned hostile and have not supported the case of prosecution; none of witnesses deposed against the present applicant regarding the aforesaid offence and final conclusion of trial will take considerable long time. In view of evidence available on record, I deem it proper to release the applicant on bail. Therefore, without commenting on the merits of the case, the application is allowed.

7. It is directed that the applicant be released on bail upon his furnishing a personal bond in the sum of **Rs.75,000/- (Rupees Seventy Five Thousand only)** with one solvent surety in the like amount to the satisfaction of the trial Court for his appearance before the trial Court, as and when required. He shall abide by the conditions enumerated u/S. 437(3) Cr.P.C.

Certified copy as per rules.

(ANIL VERMA)

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JUDGE

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