IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SMT. JUSTICE ANURADHA SHUKLA

ON THE 2nd OF FEBRUARY, 2024

MISC. CRIMINAL CASE No. 1548 of 2024

BETWEEN:-

SUNIL UIKEY S/O LATE SHIVKUMAR UIKEY, AGED ABOUT 21 YEARS, OCCUPATION: BUSINESS R/O VILLAGE MOHARLI P.S. DEHAT AND DISTRICT CHHINDWARA (M.P.)

.....APPLICANT

(BY SHRI YASHOWARDHAN SHUKLA - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THROUGH POLICE STATION KUDNIPURA DISTRICT CHHINDWARA (M.P.)

.....RESPONDENT

(BY SHRI J.S. PARIHAR - PANEL LAWYER)

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

ORDER

This is **third** application under Section 439 of the Code of Criminal Procedure 1973 for grant of bail filed on behalf of the applicant who has been arrested relating to FIR/Crime No.418/2022 registered at Police Station Kundipura, district Chhindwara for the offences punishable under Sections 302, 201 and 34 of IPC.

Learned counsel for the applicant submits that the applicant is in custody. The trial will take considerable time to conclude. He further submits that the applicant is innocent and has falsely been implicated in the case. The applicant is a permanent resident of district and there is no likelihood of his absconding

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or tampering with prosecution evidence. He is ready to furnish adequate surety and shall abide by all the conditions to be imposed by the Court. Upon these grounds, it is prayed that the applicant be released on bail.

On the other hand, learned counsel for the State has opposed the bail application.

Heard learned counsel for the parties and perused the case diary.

This is the third bail application filed on behalf of applicant, the first one was dismissed as withdrawn vide order dated 27.02.2023 passed in M.Cr.C. No.60358/2022 and the second one was dismissed on merits vide order dated 03.11.2023 passed in M.Cr.C. No.41079/2023. This bail application has been argued primarily on the ground of statements of prosecution witnesses recorded before the trial Court. It is a case where no one witnessed the incident of murder. Only on the basis of statements of witnesses recorded during investigation, seizure of blood stained clothes and axe from the applicant and the cyber cell report about the mobile phones of deceased, his sister and the applicant, the charge-sheet was filed. Prosecution witnesses namely Avinash (PW11) - the brother of deceased, Akash Bais (PW12) - the seizure witness, Roshni Uikey (PW5) - sister of deceased, Sangita (PW2) - the mother of deceased and Kamlesh (PW4) are the material witnesses in the case, but after going through their testimonies, the submission made by the counsel for applicant for grant of bail deserves reconsideration. Although the clothes and the axe allegedly seized from the applicant have tested positive for the presence of blood stains, but it is not disclosed in the FSL report that the blood stains were related to human blood.

Having considered the material evidence available on record of the trial

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Court and its implication and without going into the merits of the matter, this bail application is **allowed**.

It is directed that the applicant shall be released on bail upon his furnishing a personal bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand Only)** with one solvent surety in the like amount to the satisfaction of the trial Court concerned for his appearance before the said Court on all such dates as may be fixed in this regard during pendency of the trial.

It is further directed that the applicant shall comply with the provisions of Section 437(3) of Cr.P.C.

Accordingly, this M.Cr.C. stands allowed and disposed of.

(ANURADHA SHUKLA)
JUDGE

rv

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