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. 3145 of 2024

BETWEEN:-

JITESH WASWANI @ LALU @ NITESH, S/O SHRI DILIP WASWANI, AGED ABOUT 29 YEARS, OCCUPATION: SHOP OF TYPING, R/O H. NO. G-9/14, NEAR BANK OF BARODA, BAIRAGARH BHOPAL, DISTRICT BHOPAL (MADHYA PRADESH)

.....APPLICANT

(BY SHRI ANKIT SAXENA - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THROUGH POLICE STATION BAIRAGARH, DISTRICT BHOPAL (MADHYA PRADESH)

.....RESPONDENT

(BY SHRI JITENDRA PARIHAR - PANEL LAWYER)

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

ORDER

This is **second** bail application filed by the applicant under Section 439 of the Code of Criminal Procedure 1973 for grant of bail relating to FIR/Crime No.325/2023 dated 01.09.2023 registered at Police Station Bairagarh, District Bhopal (M.P.), for the offences punishable under Sections 294, 323, 307, 506, 34, 201 of IPC and Section 25 of the Arms Act. His earlier bail application (M.Cr.C. No.50778/2023) was dismissed on merits vide order dated 09/11/2023.

Learned counsel for the applicant has submitted that applicant is innocent

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and has been falsely implicated in the crime in question. The applicant is in judicial custody since 01.09.2023 and the trial will take considerable time to conclude. The applicant is a permanent resident of the district and there is no likelihood of his absconding or tampering with the prosecution evidence. The applicant is ready to furnish surety and shall abide by all the directions and conditions imposed upon him by the court. Upon these circumstances, the applicant may be released on bail.

Learned counsel for the State has opposed the bail application and prayed for its rejection.

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

This repeat bail application has been argued on the ground that the statements of complainant Heeralal Babani have been recorded as PW-1. Certified copies thereof are filed on record. It shows that not a word has been stated by the injured complainant against applicant Jitesh Waswani @ Lalu @ Nitesh and he has also denied to have identified the applicant at the time of incident. It is strange that the applicant was named in the FIR and also his role was narrated in the police statements of complainant, still the complainant was not declared hostile for resiling from his previous statements about the role of present applicant.

The bail application has been opposed by counsel for the State on the ground that applicant has a criminal record of 12 cases, but having considered the statements of victim given on an oath, this repeat bail application is **allowed**.

It is directed that the applicant shall be released on bail on his furnishing a personal bond in a sum of **Rs.50,000/- (Rupees Fifty Thousand Only)** with

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one local 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 the pendency of trial.

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

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

(ANURADHA SHUKLA)
JUDGE

sjk

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