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IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE
HON'BLE SHRI JUSTICE VISHAL MISHRA

ON THE 30th OF MARCH, 2022

MISC. CRIMINAL CASE No. 15290 of 2022

Between:-

1. SMT. URMILA SEN

2. JITTU SEN

.....

.....PETITIONER

(BY SHRI B.N.PANDEY, ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH THROUGH
POLICE STATION ARAKSHI KENDRA CIVIL LINE
CHHATARPUR DISTRICT CHHATARPUR M.P.
(MADHYA PRADESH)

2. RAMKISHAN BANSKAR

.....RESPONDENTS

(BY SHRI AMIT PANDEY, PANEL LAWYER)

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

ORDER

The present petition has been filed under Section 482 of Cr.P.C. assailing the order dated 16.3.2022 passed by Special Judge (Atrocities) District-Chhatarpur whereby the learned trial Court has refused to ascertain the amount of bail bond at the time of consideration of the application in pursuance to the order passed by this Court in Cr. Appeal No.785/2022 dated 9.2.2022.

It is argued that Cr. Appeal No.785/2022 was disposed of vide order dated 9.2.2022 in the light of **Arnesh Kumar**, which are as under:-

*Considering the overall facts and circumstances of the case, this Court deems it appropriate to disposed of the bail application **subject to verification of the fact that the appellants are the first offender**. In view of the principles laid down by the Supreme Court in the case of **Arnesh Kumar (supra)**, the appellants should first be summoned to cooperate in the investigation. If the appellants cooperate and the punishment is of seven years for the aforesaid offence and without commenting upon the merits of the case and in the investigation then the occasion of their arrest should not arise.*

*In view of above and considering the principles laid down by the Apex Court in the case of **Arnesh Kumar (Supra)**, this Court is inclined to **allow** the application.*

The learned trial Court has refused to furnish the bail bond as no amount of bail bond has been fixed by this Court, therefore, trial Court has rejected the application. He has placed reliance upon the judgment passed by the Supreme Court in **Vijay Madanlal Choudhary & ors. Vs. Union of India & ors. passed in SLP (Cr.l.) No.4634/2014 decided on 31.5.2018** whereby the Hon'ble Supreme Court has held as under:-

-The Additional Chief Metropolitan Magistrate, Esplanade, Mumbai, should have realized that once an order is passed by the Supreme Court directing release of the petitioner on bail and there is no mention about the bail amount, it is incumbent on the trial Court to fix the amount for the bail bonds. The order dated 21st May, 2018, of the Additional Chief Metropolitan Magistrate, Esplanade, Mumbai, refusing to release the petitioner on bail on the ground that bail amount has not been mentioned in our order, is not justified.

The Additional Chief Metropolitan Magistrate, Esplanade, Mumbai, is well advised to proceed to release the petitioner on bail to his satisfaction by fixing the amount for the bail bonds.

The application is disposed of accordingly.

The aforesaid judgment of Supreme Court was also placed before the

learned trial Court but the trial Court has rejected the application. He has prayed for a direction to the trial Court to permit the petitioner to furnish the bail bonds.

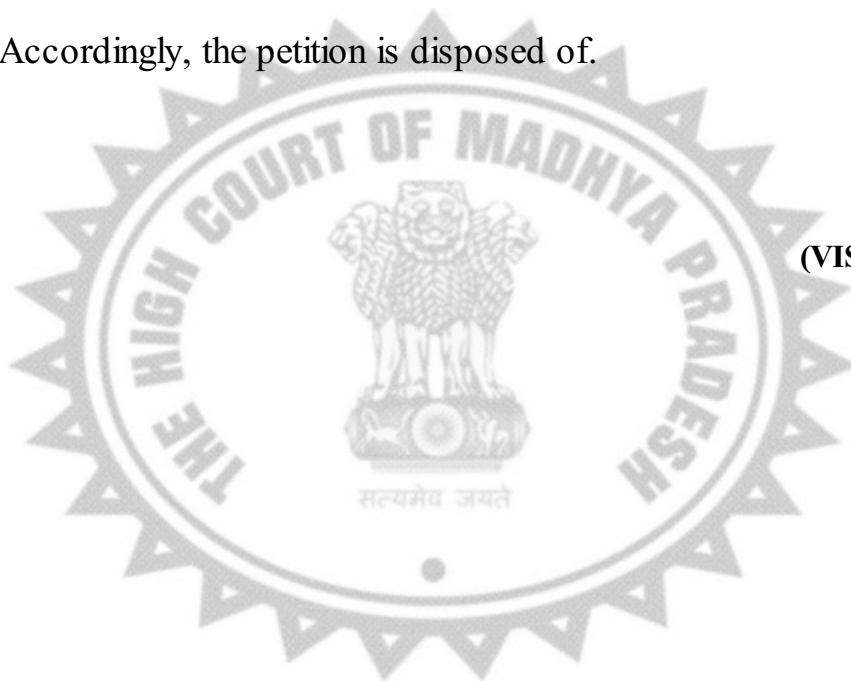
Counsel for the State fairly submits that in pursuance to the judgment passed by the Supreme Court in the case of **Vijay Madanlal** (supra). the learned Special Judge should have fixed the amount for furnishing the bail bonds.

Considering the overall facts and circumstances of the case, learned Special Judge is directed to fix an amount for releasing the applicants on bail in pursuance to the judgment passed by the Supreme Court in the case of **Vijay Madanlal** (supra) as the aforesaid judgment is already settled by the Supreme Court.

The learned Special Judge is directed to remain cautious while dealing with the bail order.

Accordingly, the petition is disposed of.

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(VISHAL MISHRA)
JUDGE