

1
**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

**BEFORE
HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR**

ON THE 22nd OF JANUARY, 2024

MISC. CRIMINAL CASE No. 119 of 2024

BETWEEN:-

DAMODAR YADAV

.....APPLICANT

(SHRI SIDDHARTH SIJORIA- ADVOCATE FOR APPLICANT)

AND

**THE STATE OF MADHYA PRADESH THROUGH POLICE
STATION DHARNAVADA DISTRICT GUNA (MADHYA
PRADESH)**

.....RESPONDENT

(SHRI V.P.S. TOMAR- PANEL LAWYER FOR RESPONDENT- STATE)

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

ORDER

This first bail application has been filed by applicant under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail in connection with Crime No.455 of 2023 registered at Police Station Dharnavada, District Guna (M.P.) for offence punishable under Section 306 read with Section 34 of IPC. Applicant is in judicial custody since 27-12-2023.

As per the case of prosecution, Chandra Mohan Yadav reported to ASI Rajesh Bilala at District Hospital, Guna that Damodar Yadav (applicant), Somprakas Yadav and Girraj Yadav had an altercation with his cousin Radheshyam Yadav. Damodar Yadav did not permit Radheshyam Yadav to

visit his *Mohalla*. On 02-11-2023 around 02:00 in the afternoon, Nandkishore Yadav informed that Radheshyam has uploaded one video on facebook wherein Radheshyam was seen consuming poison and alleging that Damodar Yadav would be responsible for his death. Chandra Mohan also informed that Radheshyam has consumed sulphas and he is admitted at District Hospital, Guna. Radheshyam died at District Hospital Guna on 02-11-2023 at 05:15 pm. On such allegations, PS Dharnavada, District Guna registered FIR at Crime No. 455 of 2023 for offence punishable under Section 306 read with Section 34 of IPC against Damodar Yadav (applicant), Som Prakas Yadav and Girraj Yadav. Applicant was arrested on 27-12-2023. Relevant seizure was made. On completion of investigation, Final Report was submitted on 28-12-2023.

Learned Counsel for the applicant, in addition to the grounds mentioned in the application, submits that there was minor altercation between the applicant and deceased. Applicant has never intended death of Radheshyam. Even if entire allegations are taken on face value, no offence of abetment or instigation is made out against the applicant. Mere harassment or abuses does not amount to instigation or abetment to commit suicide. Learned Counsel further submits that co-accused have been extended the benefit of bail by the trial Court. The applicant is a farmer by profession and has family to look after. There is no likelihood of his absconsion leaving his family, home and agricultural property. There is no likelihood of tampering with the prosecution evidence as both parties belong to same socio-economic status. Trial would take time to conclude. Therefore, applicant may also be extended the benefit of bail.

Per contra, learned Counsel for the State opposes the bail application on the ground of gravity of alleged offence and cites criminal antecedent of one

case against the applicant.

In reply, learned Counsel for the applicant submits that in other matter, the applicant has been released on bail and has never been convicted.

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

Considering the arguments advanced by both the parties and overall circumstances of the case, but without commenting on merits of the case, this Court is inclined to release the applicant on bail. Thus, the application is allowed.

Accordingly, it is directed that applicant **Damodar Yadav** shall be released on bail in connection with Crime No.455 of 2023 registered at Police Station Dharnavada, District Guna (M.P.) for offence punishable under Section 306 read with Section 34 of IPC upon furnishing a personal bond in the sum of **Rs.50,000/- (Rupees fifty thousand only)** with one surety of the same amount to the satisfaction of the Trial Court, for compliance with the following conditions, : **(For the sake of convenience of understanding by accused and surety, the conditions of bail are also reproduced in Hindi as under):-**

(1) Applicant shall remain present on every date of hearing as may he directed by the concerned court;

(1) आवेदक संबंधित न्यायालय के निर्देशानुसार सुनवाई की प्रत्येक तिथि पर उपस्थित रहेगा।

(2) Applicant shall not commit or get involved in any offence of similar nature;

(2) आवेदक समान प्रकृति का कोई अपराध नहीं करेगा या उसमें सम्मिलित नहीं होगा।

(3) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them/him/her from disclosing such facts to the Court or to the police officer;

(3) आवेदक प्रकरण के तथ्यों से परिचित किसी व्यक्ति को प्रत्यक्ष या अप्रत्यक्ष रूप से प्रलोभन, धमकी या वचन नहीं देगा, जिससे ऐसा व्यक्ति ऐसे तथ्यों को न्यायालय या पुलिस अधिकारी को प्रकट करने से निवारित हो।

(4) Applicant shall not directly or indirectly attempt to temper with the evidence or allure, pressurize or threaten the witness;

(4) आवेदक प्रत्यक्ष या अप्रत्यक्ष रूप से साक्ष्य के साथ छेड़छाड़ करने का या साक्षी या साक्षियों को बहलाने—फुसलाने, दबाव डालने या धमकाने का प्रयास नहीं करेगा।

(5) During trial, the applicants shall ensure due compliance of provisions of Section 309 of Cr.P.C. regarding examination of witnesses in attendance;

(5) विचारण के दौरान, उपस्थित गवाहों से परीक्षण के संबंध में आवेदक धारा 309 दं.प्र.सं. के प्रावधानों का उचित अनुपालन सुनिश्चित करेगा।

This order shall be effective till the end of trial. However, in case of breach of any of the precondition of bail, it shall become ineffective without reference to the Court.

The trial Court shall get these conditions reproduced on the personal bond by the accused and on surety bond by the surety concerned, if any of them is unable to write, the scribe shall certify that he had explained the conditions to the concerned accused or the surety.

C.C. as per rules.

(SANJEEV S KALGAONKAR)
JUDGE