

The High Court of Madhya Pradesh
Mrcr.40139.2020
(Suresh Singh Tomar Vs. State of M.P.)

Gwalior dated : 16/10/2020

Shri P.S. Bhadoriya, learned counsel for the applicant.

Shri Vivek Sharma, learned Panel Lawyer, for respondent/State.

Learned counsel for the rival parties are heard through Video Conferencing.

This is first application filed u/S.438 Cr.P.C. for grant of anticipatory bail by the applicant.

Applicant apprehends arrest in connection with offences punishable u/Ss.294, 323, 324, 26, 506(2), 34 of IPC registered as Crime No.66/2020 by Police Station Malanpur, district-Bhind.

Learned counsel for the State opposed the application and prayed for its rejection by contending that on the basis of the allegations and the material available on record, no case for grant of anticipatory bail is made out.

Allegation against the petitioner is of causing lathi blow on the head of the injured who received two incised injury on the head which are attributed to co-accused Ramavatar who was wielding and has used a sharp cutting object *Dhariya*. There is no X-ray report in the case diary and therefore, even if the injured has sustained any grievous injury, it can

not be attributed to the petitioner who was wielding lathi with which incised wound could not have been inflicted. Applicant has no criminal antecedents.

Considering the above and that the material placed on record does not disclose the possibility of applicant fleeing from justice, this Court is inclined to extend the benefit of anticipatory bail to the applicant.

Accordingly, without expressing any opinion on merits of the case, I deem it appropriate to allow this application u/S. 438 of Cr.P.C. in the following terms.

It is hereby directed that in the event of arrest, the applicant shall be released on bail on furnishing a personal bond in the sum of **Rs. 50,000/- (Rs.Fifty Thousand only) with one solvent surety of the like amount** to the satisfaction of the Arresting Authority.

This order will remain operative subject to compliance of the following conditions by the applicant:-

1. The applicant will comply with all the terms and conditions of the bond executed by him;
2. The applicant will cooperate in the investigation/trial, as the case may be;
3. The applicant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;

4. The applicant shall not commit an offence similar to the offence of which he is accused;
5. The applicant will not seek unnecessary adjournments during the trial;
6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be;
7. The applicant as **Shiksha Swayamsevak** shall render physical and financial assistance to government primary school situated nearest to residence of applicant for ensuring hygiene and sanitation and for removing deficiencies of infrastructural amenities in the said school from the skill/resources of the applicant. [याचिकाकर्ता एक शिक्षा स्वयंसेवक के रूप में अपने निवास के निकट अवस्थित सरकारी प्राथमिक विद्यालय में स्वच्छता और आरोग्य को सुनिश्चित करने के लिए शारीरिक एवं वित्तीय सहायता प्रदान करेगा तथा अपने कौशल व संसाधनों से उक्त विद्यालय में अवसंरचनात्मक सुविधाओं की कमियों को दूर करेगा।]

The applicant after selecting a particular Govt. Primary School shall inform about the same to the office of Gram Panchayat (in case of rural area) and/or Ward Officer of the concerned ward (in case of urban area), within whose territorial jurisdiction the said school is situated. [याचिकाकर्ता एक विशिष्ट सरकारी स्कूल का चयन करने के पश्चात् इसके बारे में ग्राम पंचायत के कार्यालय (ग्रामीण क्षेत्र के मामले में) और/या सम्बंधित वार्ड के वार्ड अधिकारी (शहरी क्षेत्र के मामले में) जिसके क्षेत्राधिकार में उक्त स्कूल अवस्थित है, को सूचित करेगा।]

It will be joint responsibility of Sarpanch and Secretary of said Gram Panchayat (in case of rural area) and/or Ward Officer of the concerned ward (in case of urban area) to preserve the said information

provided by the applicant. [यह सम्बंधित वार्ड के वार्ड अधिकारी (शहरी क्षेत्र के मामले में) और/या उक्त ग्राम पंचायत के सरपंच और सचिव (ग्रामीण क्षेत्र के मामले में) की संयुक्त जिम्मेदारी होगी कि, याचिकाकर्ता द्वारा प्रदत्त सूचना को संरक्षित करें।]

The registry of this Court shall communicate this order through Legal Aid Officer, SALSA, Gwalior to the Collector, District Education Officer, Block Education Officer of the district/block concerned for information and compliance.

A copy of this order be supplied to the Legal Aid Officer, SALSA, Gwalior who is directed to communicate this order to the District Education Officer, Block Education Officer of the district/block concerned to verify as to whether applicant has complied with condition No.7 or not and submit report once every month.

In case, report regarding condition No.7 is not filed or report is found to be wanting in any manner then Registry is directed to list this matter as PUD before appropriate Bench.

A copy of this order be sent to the Court concerned for information.

It has come to notice of this Court since a few days that Penal Lawyers who are freshers and are representing the State for the first time are unable to assist this Court in a proper manner. Such fresher Panel

Lawyers are unable to read and understand the MLC and the post-mortem report and are not prepared.

In matters of bail where some of the fresher Panel Lawyer represent the state, they are not ready with answers to the questions which are ordinarily asked by the Court during adjudication of bail applications.

When the court has large number of cases listed before it, the least that is expected of the counsel representing the State, which is the largest litigants, is to be prepared to answer the questions that are normally asked by this Court.

This Court is unaware as to whether the freshers Panel Lawyer have any exposure of appearing in cases in the High Court before being appointed as Panel Lawyers or not and whether these Panel Lawyers have practiced on the side in which they are representing the State as Panel Lawyer.

What is becoming obvious from the observation in the last few days is that raw and fresh hands are being deputed to represent the State.

This court has no jurisdiction to interfere with the right, privileges of the State to engage/appoint any Advocate as a Panel Lawyer but when the said Panel Lawyer while representing the State does not assist the

Court in the manner, she/he is expected to, the said lack of assistance obstructs and hinders justice dispensation.

This court not only suggests but expects from the State, the learned Advocate General at Jabalpur and the learned Additional Advocate General at Gwalior that before deputing a Panel Lawyer to represent the State in any case before the High Court and the said Panel Lawyer has no experience to appear in the High Court, such fresher Panel Lawyer should be subjected to an orientation course/training for a few days or a few weeks as thought fit by the State/Advocate General/Additional Advocate General at Gwalior, by holding training sessions in shape of class room training (for theory) and simultaneously asking the freshers Panel Lawyer to sit alongside the experienced Panel Lawyer/Government Advocate etc. to learn the basics. After the end of the training/orientation course which may be of few days or few weeks as thought fit by the State/Advocate General/Additional Advocate General, a test should be held by Advocate General at Jabalpur and Additional Additional Advocate General, at Gwalior of such fresher Panel Lawyers to choose the one's who pass the test to be deputed to independently represent the Govt. before the High Court.

