

THE HIGH COURT OF MADHYA PRADESH
MCRC No.26697/2020
(KISHORE SINGH VS. THE STATE OF MADHYA PRADESH)

Gwalior dtd. 13/08/2020

Shri Deependra Singh Kushwah, learned counsel for the applicant.

Shri Anup Nigam, learned Panel Lawyer for the State.

Case diary is available.

Heard finally, through video conferencing.

This first application under Section 438 of Cr.P.C. has been filed for grant of anticipatory bail.

The applicant apprehends his arrest in connection with Crime No.188/2020 registered at Police Station Gormi, District Bhind for offence under Sections 307, 294, 323 and 429 of IPC.

It is submitted by the counsel for the applicant that because of property dispute, a false report has been lodged against him. According to the prosecution case, the applicant fired a gun shot on the complainant who sat down as a result of which the bullet hit the spinal cord of the calf and ultimately got stuck in the wall. It is further alleged that the applicant assaulted Ramdhun by means of an axe as well as Mohar Singh by the handle of the axe. It is further submitted that these allegations are false and are not supported by medical evidence. The trial is likely to take sufficiently long time. There is no possibility of his absconding or tampering with the prosecution case.

Per contra, the application is opposed by the counsel for the State. However, after going through the spot map, it was fairly

conceded by the counsel for the State that there is nothing to indicate that any gun shot mark was found on the wall. Further there is no document to show that any bullet was recovered from the spot. The MLC of calf prepared by Veterinary doctor is not in the case diary and further an abrasion was found on right elbow of Ramdhun Singh and a swelling was found on right thumb of Mohan.

Considered the submissions made by the Counsel for the parties through video conferencing.

The Supreme Court by order dated 23-3-2020 passed in the case of **IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS** in **SUO MOTU W.P. (C) No. 1/2020** has directed all the States to constitute a High Powered Committee to consider the release of prisoners in order to decongest the prisons. The Supreme Court has observed as under :

“The issue of overcrowding of prisons is a matter of serious concern particularly in the present context of the pandemic of Corona Virus (COVID – 19).

Having regard to the provisions of Article 21 of the Constitution of India, it has become imperative to ensure that the spread of the Corona Virus within the prisons is controlled.

We direct that each State/Union Territory shall constitute a High Powered Committee comprising of (i) Chairman of the State Legal Services Committee, (ii) the Principal Secretary (Home/Prison) by whatever designation is known as, (ii) Director General of Prison(s), to determine which class of prisoners can be released on parole or an interim bail for such period as may be thought appropriate. For instance, the State/Union Territory could consider the release of prisoners who have been convicted or are undertrial for offences for

which prescribed punishment is up to 7 years or less, with or without fine and the prisoner has been convicted for a lesser number of years than the maximum.

It is made clear that we leave it open for the High Powered Committee to determine the category of prisoners who should be released as aforesaid, depending upon the nature of offence, the number of years to which he or she has been sentenced or the severity of the offence with which he/she is charged with and is facing trial or any other relevant factor, which the Committee may consider appropriate.”

Considering the facts and circumstances of the case as well as considering the fact that no incised wound was found from the body of Ramdhun Singh as well as there is nothing in the case diary to indicate that any gun shot mark was found on any wall or any bullet was recovered from the spot as well as in absence of MLC of calf prepared by Veterinary doctor, the application for grant of anticipatory bail is allowed. It is directed that if the applicant appears before the investigating officer on or before **20/08/2020** and furnish his personal bond in the sum of **Rs. 1,00,000 (Rs. One Lac)** with one solvent surety in the like amount to the satisfaction of the investigation officer, then he shall be released on bail. The applicant shall also furnish an undertaking that they will abide by all the instructions which may be issued by the Central Govt./State Govt. or Local Administration (General or Specific) from time to time for combating Covid-19.

The applicant is directed to strictly follow all the instructions which may be issued by the Central Govt./State Govt. or Local Administration for combating Covid19. If it is

found that the applicant has violated any of the instructions (whether general or specific) issued by the Central Govt./State Govt. or Local Administration, then this order shall automatically lose its effect, and the Local Administration/Police Authorities shall immediately take him in custody. The applicant is further directed to supply a copy of this bail order to the police station having jurisdiction over his place of residence.

The other conditions of Section 438 of Cr.P.C. shall remain the same.

In case of violation of any of the condition(s) mentioned above, this order shall automatically lose its effect.

With aforesaid observations, this application is **allowed**.

Pj'S/-

(G.S.Ahluwalia)
Judge