

Narendra Singh Kushwah vs The State Of Madhya Pradesh on 7 February, 2025

Author: Maninder S. Bhatti

Bench: Maninder S. Bhatti

NEUTRAL CITATION NO. 2025:MPHC-GWL:2648

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MCRC-4

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE
HON'BLE SHRI JUSTICE MANINDER S. BHATTI
ON THE 7th OF FEBRUARY, 2025
MISC. CRIMINAL CASE No. 42245 of 2024
NARENDRA SINGH KUSHWAH
Versus
THE STATE OF MADHYA PRADESH

Appearance:

Shri Raj Kumar Shrivastava - Advocate for the applicant.
Shri Yogesh Parashar - PP for the State.
Shri Vivek Kumar Mishra - Advocate for the complainant.

ORDER

This is first bail application filed by the applicant under Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023 for grant of anticipatory bail relating to FIR/CrimeNo. 312/2023 registered at Police Station Gole Ka Mandir, District Gwalior for the offences punishable under Sections 294, 323, 452, 365, 147, 148, 149, 379, 364A of the Indian Penal Code and Section 11/13 of the M.P. Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam, 1981

2. The counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the case. It is submitted that it is a peculiar case where the present applicant was being prosecuted for the offences punishable under Sections 294, 323, 452, 365, 147, 148, NEUTRAL CITATION NO. 2025:MPHC-GWL:2648 2 MCRC-42245-2024 149, 379. The applicant was arrested and then applied for regular bail. The regular bail application filed by the applicant vide M.Cr.C. No. 25248 of 2023 was allowed by this Court vide order dated 22.6.2023 and the applicant was released on regular bail. Thereafter, in the month of July, 2023, offences under Section 364A of the IPC and Section 11/13 of the M.P. Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam, 1981 were registered/added against the applicant and therefore, the applicant is apprehending his arrest again in this case. It is submitted by the counsel for the applicant that his prayer for regular bail was considered by this Court on similar set of facts and same was acceded too. In such circumstances, in

view of the law laid down by a Division Bench of Jharkhand High Court in the case of Pradeep Ram Vs. State of Jharkhand & another - (2019) 8 SCR 824, which has been referred to by this Court in M.Cr.C. No. 30908 of 2023 (Parmanand Tyagi Vs. State of M.P.), the applicant be enlarged on anticipatory bail. It is further submitted that the applicant is ready to co-operate with the investigation and trial. Trial would take considerable time to conclude, therefore, the applicant be enlarged on anticipatory bail.

3. The counsel for the State and the complainant have opposed the application. The counsel for the complainant further submits that the applicant cannot claim anticipatory bail as a matter of right in view of the statutory bar engrafted under Section 5(1) of the M.P. Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam, 1981, inasmuch as the NEUTRAL CITATION NO. 2025:MPHC-GWL:2648 3 MCRC-42245-2024 anticipatory bail application of similarly placed co-accused persons was rejected by this Court vide order dated 31.8.2024 passed in M.Cr.C. No. 36524 of 2024 (Pradeep Kushwah Vs. State of M.P.) . It is, thus, contended that as the said eventuality has already been dealt with by the co-ordinate Bench of this Court, the present application is liable to be dismissed.

4. Heard the submissions advanced on behalf of the parties and perused the case diary.

5. On perusal of the record, it is gathered that undisputedly, the benefit of grant of regular bail was extended to the present applicant vide order dated 22.6.2023 when he approached this Court by filing M.Cr.C. No. 25248 of 2023. After granting bail to the applicant, subsequently in the month of July, 2023, on the basis of statements of few other witnesses, the offences under Section 364A and Section 11/13 of the M.P. Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam, 1981 were also added, which necessitated the filing of the present application for anticipatory bail. It is also not in dispute that while considering the previous bail application, the offence under Section 11/13 of the M.P. Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam, 1981 were not added against the applicant and the entire matter was taken into consideration by this Court on the merits and this Court after appreciating rival submissions had granted regular bail to the present applicant. Therefore, in view of the decision of the Jharkhand High NEUTRAL CITATION NO. 2025:MPHC-GWL:2648 4 MCRC-42245-2024 Court in Pradeep Ram Vs. State of Jharkhand (Supra) as well as decision of this Court in Parmanand Tyagi (supra) , this Court is of the considered view that the applicant is entitled to be enlarged on anticipatory bail.

6. So far as objection so raised by the counsel for the complainant as regards maintainability of this application is concerned, it would be germane to take note that at the time of hearing of bail application of co-accused filed vide M.Cr.C. No. 36524 of 2024, decisions of Pradeep Ram (Supra) and Parmanand Tyagi (supra) were not brought to the notice of this Court. Therefore, in the considered opinion of this Court, in view of the law laid down in the case of Pradeep Ram (supra) by the Jharkhand High Court, which has been followed by this Court in the case of Parmanand Tyagi (supra) , the present application deserves to be allowed.

7. Accordingly, without commenting on the merits of the case, the application is allowed.

8. It is directed that in the event of arrest, the applicant shall be enlarged on anticipatory bail on furnishing a personal bond in a sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one surety in the like amount to the satisfaction of the arresting Officer/trial Court concerned for his appearance before him during the course of investigation or before the trial Court during course of trial, as the case may be, during the pendency of trial.

9. It is further directed that the applicant shall comply with the NEUTRAL CITATION NO. 2025:MPHC-GWL:2648 5 MCRC-42245-2024 provisions of Section 482(2) of the Bharatiya Nagrik Suraksha Sanhita, 2023.

(MANINDER S. BHATTI) JUDGE PB