

Bharat Singh Gurjar vs The State Of Madhya Pradesh on 17 January, 2025

NEUTRAL CITATION NO. 2025:MPHC-GWL:937

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IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE
HON'BLE SHRI JUSTICE VIVEK JAIN
ON THE 17th OF JANUARY, 2025
MISC. CRIMINAL CASE No. 55155 of 2024
BHARAT SINGH GURJAR
Versus
THE STATE OF MADHYA PRADESH

Appearance:

Shri Faisal Ali Shah, learned counsel for the applicant

Shri Anurag Sharma, Public Prosecutor for respondent

Shri Arjun Sharma, learned counsel for the respondent

ORDER

The present application has been filed under Section 482 of Bhartiya Nagrik Suraksha Sanhita Adhiniyam, 2023 for grant of anticipatory bail to the applicant arising out of Crime No.252/2024 registered at Police Station Ambha, Morena (M.P.) for offences punishable under Sections 307, 294, 34 of IPC. This is a repeat application for anticipatory bail filed by the applicant. The first application for anticipatory bail was rejected by this Court in M.Cr.C. No.31250/2024.

2. Counsel for the applicant submits that though usually repeat bail applications for anticipatory bail are not maintainable under Section 482 BNSS/Section 438 Cr.P.C. but it is a case in which there is exceptional change of circumstances on account of which the repeat bail application should be entertained.

3. Counsel for the applicant submits that the present case is one of cross case NEUTRAL CITATION NO. 2025:MPHC-GWL:937 2 MCRC-55155-2024 and the FIR of the party of present applicant was at Crime No.251/2024 in which it has been alleged that the present applicant has received a gun shot injury in his abdomen. In the said cross case, the injured of the present case is one of the accused persons along with three other members of his family. It is argued by learned counsel for the applicant that the applicant is in service and is Constable in CRPF. He had come to his ancestral village on account of death of his mother. There was some land dispute between the parties on account of which the complainant party fired gunshot which hit the present applicant in abdomen on account of which cross case has been registered, in which present applicant is the complainant.

4. In the FIR in question registered against the present applicant, it is argued that the allegation against the present applicant is that he hit the injured Koman Singh in the shin of his right leg. It is contended that at the time of withdrawal of earlier bail application, the subsequent medical reports prepared by the Medical Board of GR Medical College, which is a Government Medical College were not in possession of the applicant nor the said medical report was in existence.

5. By placing reliance on medical papers of injured Komal Singh, it is argued that in the pre MLC, it was reported that there is a lacerated wound on right calf muscle which was alleged to be caused by firearm injury given by relative. Primary treatment was given on 17/04/2024 and it was recorded that there was no burning, blackening or tattooing on the injury. Thereafter, upon suspicion of cause of injury, the injured was referred to District Medical Board, Morena, which on 06/07/2024 referred the matter to Medico Legal Experts at JA Hospital, Gwalior, which is a Government Hospital associated NEUTRAL CITATION NO. 2025:MPHC-GWL:937 3 MCRC-55155-2024 to GR Medical College, Gwalior, which is also a Government Medical College. The District Medical Board at Morena did not find any bony injury in the X-Ray. The report of Dr. Divyesh Saxena, Associate Professor, Department of Forensic Medicine, GR Medical College, Gwalior is placed on record, in which it is clearly mentioned that the injury sustained to injured Komal Singh is not a firearm injury. Thus, on the basis of this report dated 06/12/2024, it is contended that there is a change of circumstances, on account of which repeat bail application can be entertained for anticipatory bail. It is argued that since the injury has been found to be self inflicted injury not caused by gunshot, the applicant has been falsely implicated in the matter.

6. Per contra, the application is vehemently opposed by the counsel for the complainant as well as by the State by referring to the material against the applicant in the case diary.

7. Upon hearing the learned counsel for the parties, it is seen that in the report prepared by GR Medical College, Gwalior, the following findings have been mentioned:

1. Injury sustained to Komal is NOT a Firearm Injury.
2. Injury sustained to Komal is Simple in nature.
3. Injury sustained to Komal is NOT Dangerous to life.
4. Possibility of Self-Infliction of injury cannot be ruled out.
5. As mentioned in the Pre-MLC report, duration of injury is within 6 hours since the time of Pre-MLC report at C.H. Ambah.

8. In view of the aforesaid report prepared by Government Medical College and forwarded to the police authorities, it appears that there is a change of circumstances on account of which the repeat anticipatory bail application NEUTRAL CITATION NO. 2025:MPHC-GWL:937 4 MCRC-55155-2024 may be considered despite the scope of repeat anticipatory bail application being very limited in terms of judgment of the Supreme Court in the case of G.R. Ananda Babu Vs. State of

Tamilnadu (SLP (criminal) No.213/2021). 9 . Consequently looking to the aforesaid facts and circumstances but without commenting anything on the merits of the case, the application for anticipatory bail is hereby allowed and it is directed that in the event of arrest, the applicant be released on bail upon his furnishing a bail bond in the sum of Rs.50,000/- (Rupees Fifty Thousand) with one solvent surety of the like amount to the satisfaction of the Station House Officer/Arresting Officer of the Police Station concerned.

10. The applicant shall abide by the conditions enumerated under Section 482(2) of the Bhartiya Nagrik Suraksha Sanhita, 2023.

(VIVEK JAIN) JUDGE RS