

Diwan vs The State Of Madhya Pradesh on 6 September, 2024

Author: Sanjeev S Kalgaonkar

Bench: Sanjeev S Kalgaonkar

NEUTRAL CITATION NO. 2024:MPHC-IND:25973

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MCRC -

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR
ON THE 6th OF SEPTEMBER, 2024
MISC. CRIMINAL CASE No. 38618 of 2024
DIWAN
Versus
THE STATE OF MADHYA PRADESH

Appearance:

Shri Rajat Raghuwanshi, learned counsel for the applicant
Shri Santosh Singh Thakur, learned Govt. Advocate for the respondent/State.

ORDER

This first application has been filed by applicant under section 483 of BNSS/439 of the Code of Criminal Procedure, 1973 for grant of bail in connection with Crime No.554/2024 registered at Police Station Ranapur, District Jhabua(M.P.) for offence punishable under Section 304(2) of Bhartiya Nyaya Sanhita, 2023. Applicant is in judicial custody since 21.08.2024.

As per the case of prosecution, complainant Vaista Solanki reported to SHO of PS Ranapur, District Jhabua(M.P.) that on 20.08.2024 around 05.00 in the evening, he was talking on his mobile phone near village Ranapur, three persons came on a motorcycle. One of them snatched his mobile, thereafter, all the three offenders fled away on NEUTRAL CITATION NO. 2024:MPHC-IND:25973 2 MCRC-38618-2024 their motorcycle towards Udaigarh. He followed and intercepted them near village Bann. One of the offenders, namely, Diwan son of Remsingh (applicant) was apprehended with the help of Dhansingh and Jitendra. Diwansingh was produced before the PS Udaigad. On such allegations, PS Ranapur, District Jhabua(M.P.) registered FIR at Crime No.554/2024 for offence punishable under Section 304(2) of Bhartiya Nyaya Sanhita, 2023. The applicant was arrested on 21.08.2024. He is in custody ever since. Statement of prosecution witnesses were recorded. One motorcycle and mobile phone were seized from the possession of the applicant. Investigation is under way with regard to absconding accused.

Learned Counsel for the applicant, in addition to the grounds mentioned in the application, submits that applicant has been falsely implicated in the matter. He further submits that minor altercation between the parties was given color of offence of snatching. The applicant is aged around 23 years. He is agriculturist by profession. He has a family to look after. There is no likelihood of applicant's absconding leaving his family and home. He is sole bread earner of his family. Further custodial interrogation of the applicant is not needed in the matter. Jail incarceration is causing hardship to the family. There is no likelihood of tampering with the evidence by the applicant. Investigation and the trial would take time to complete. Therefore, applicant may be extended the benefit of bail.

NEUTRAL CITATION NO. 2024:MPHC-IND:25973 3 MCRC-38618-2024 Per contra, learned Counsel for the State opposes the bail application on the ground of gravity of alleged offence and cites three other cases as criminal history of the applicant.

In reply, learned counsel for the applicant submits that the other matters are pending for trial. The applicant has never been convicted for any major offence.

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 Diwan son of Remsingh Muvel shall be released on bail in connection with relation Crime No.554/2024 registered at Police Station Ranapur, District Jhabua(M.P.) for offence punishable under Section 304(2) of Bhartiya Nyaya Sanhita, 2023, upon furnishing a personal bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand Only) with one solvent 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 be directed by the concerned court;

NEUTRAL CITATION NO. 2024:MPHC-IND:25973 4 MCRC-38618-2024 (1) vkosnd lacaf/kr U;k;ky; ds funZs'kkuqlkj lquokbZ dh izR;sd frfFk ij mifLFkr jgsxkA (2) Applicant shall not commit or get involved in any offence of similar nature;

(2) vkosnd leku izd`fr dk dksbZ vijk/k ugha djsxk ;k mlesa lfEefyr ugha gksxkA (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) vkosnd izdj.k ds rF;ksa ls ifjfr fdlh O;fDr dks izR;{k ;k vizR;{k :i ls izyksHku] /kedh ;k opu ugha nsxk] ftlls ,slk O;fDr ,sls rF;ksa dks U;k;ky; ;k iqfyl vf/kdkjh dks izdV djus ls fuokfjr gksA (4) Applicant shall not directly or indirectly attempt to tamper with the evidence or allure, pressurize or

threaten the witness;

(4) vkosnd izR;{k ;k vizR;{k :i ls lk{; ds lkFk NsMNkM djus dk ;k lk{kh ;k lkf{k;ksa dks cgykus&Qqlykus] ncko Mkyus ;k /kedkus dk iz;kl ugha djsxkA (5) During trial, the applicant shall ensure due compliance of provisions of Section 309 of Cr.P.C. regarding examination of witnesses in attendance;

(5) fopkj.k ds nkSjku] mifLFkr xokgksa ls ijh{k.k ds laca/k esa vkosnd /kkjk 309 na-iz- la- ds izko/kkuksa dk mfpr vuqikyu lqfuf'pr djsxkA This order shall be effective till the end of trial. However, in case NEUTRAL CITATION NO. 2024:MPHC-IND:25973 5 MCRC-38618-2024 of breach of any of the preconditions 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 pn