

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE DINESH KUMAR PALIWAL

ON THE 18th OF JANUARY, 2023

MISC. CRIMINAL CASE No. 60672 of 2022

BETWEEN:-

**PRAKASH CHOUHAN S/O SHRI ROHI DAS CHOUHAN,
AGED ABOUT 23 YEARS, OCCUPATION: AUTO DRIVER
B-67 AASPAS NAGAR GODHRA SURAT DISTRICT SURAT
(GUJARAT)**

.....APPLICANT

(BY SHRI SHREYAS PANDIT - ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH THROUGH POLICE
STATION MAKHAN NAGAR DISTRICT
NARMADAPURAM (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI AMIT PANDEY - PANEL LAWYER)

*This application coming on for admission this day, the court passed the
following:*

ORDER

This first bail application is filed on behalf of the applicant under Section 439 of the Code of Criminal Procedure for grant of bail pending the trial.

The applicant has been arrested in connection with Crime No.664/2022, registered at P.S.- Babai (Makhan Nagar), District- Narmadapuram (M.P.) for commission of offence under Sections 306, 419, 420 & 34 of IPC and Section 66-D of the Information Technology Act, 2000. He is in detention since 28.11.2022.

As per prosecution story, on 21.02.2022 one Rishab Bhagoriya, aged 30

years, committed suicide by jumping into Narmada river. Before committing suicide, he recorded a voice message and forwarded the same on the mobile of his younger sister and brother. In voice message, he stated that he was being harassed by persons in Bleu Flex and Reaper Tech Company, who had engaged him for work from home as he had entered into an agreement with that company having a penalty clause that if deceased could not complete the work assigned to him within a particular period then he had to pay penalty to the said company. It is further submitted that company used to give him a big amount of work which was not possible for him to complete within the prescribed period.

Therefore, he had no option but to pay penalty to the company and this way company had realized more than Rs. 66,000/- from him and due to that he committed suicide. After investigation, charge has been filed.

Learned counsel for the applicant has submitted that applicant has not committed any offence. He is innocent. He has been falsely implicated. It is submitted that no offence under Section 306 of IPC is made out and ingredients of abatement or instigation is missing. It is further submitted that it is a matter of non-performance of condition of the contract, as deceased was not able to perform the work assigned to him, he was continuously paying the penalty. He was at liberty to terminate the contract but instead of terminating his contract with company, he used to pay the penalty and continued to work with the company. Therefore, no offence is made out. As far, the applicant Ranjit Chauhan is concerned the penalty money was transferred in his account and the same was withdrawn by Payal Mandare. The allegation against Prakash Chouhan is that he had handed over his saving bank account book to Payal Mandare after receiving the same from Ranjit Chauhan. It is submitted that Ranjit Chauhan's bank account was taken on the rent of Rs. 3,000/- per month

by Payal Mandare for operation. He had not withdrawn any money from the account. Money had been withdrawn by the Payal Mandare. Hence, it has been prayed that the applicant be released on bail.

On the other hand, learned counsel for the State has opposed the grant of bail and submitted that it is a case of cyber fraud, therefore, applicant be not released on bail.

In this case, after investigation charge sheet has been filed. Both the applicants are from the marginal class of the society. They appears to have been used by Payal Mandare. Trial of the case will take considerable time. Therefore, without expressing any opinion on the merits of the case, but having taken into consideration all the facts and circumstances of the case, I am of the view that it is a case in which further pre trial detention of the applicant/accused is not warranted. Consequently, this first bail application under Section 439 of the Code of Criminal Procedure for grant of bail filed on behalf of applicant stands **allowed**.

It is directed that **applicant - Prakash Chouhan** be released on bail on his furnishing a personal bond in the sum of **Rs.1,00,000/- (Rupees One Lac)** with two sureties each of Rs. 50,000/-, out of them one local surety to the satisfaction of the learned Trial Court.

Learned trial Court shall be at liberty to proceed under Section 446 of Cr.P.C. against applicant and his surety.

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 trial;

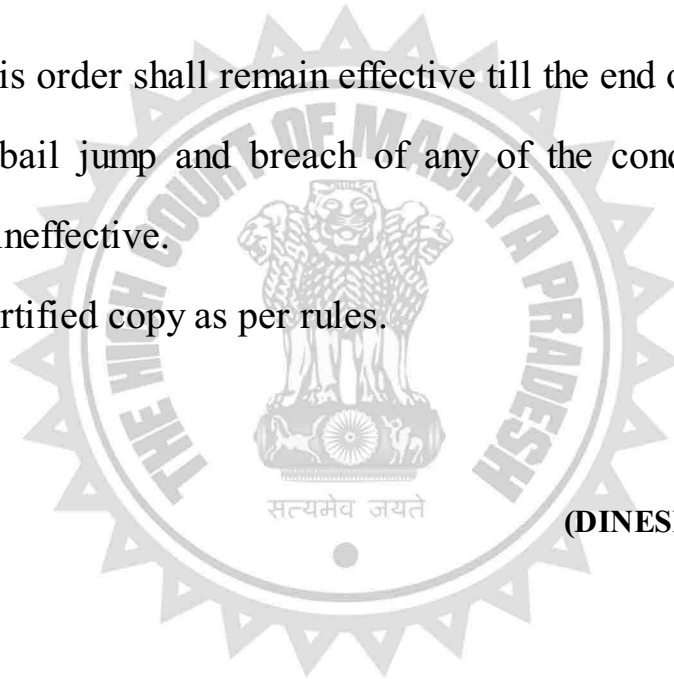
3. The applicant will not indulge himself in extending inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the Court or to the Police Officer, as the case may be;

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.

This order shall remain effective till the end of the trial. However, in case of bail jump and breach of any of the conditions of bail, it shall become ineffective.

Certified copy as per rules.



(DINESH KUMAR PALIWAL)
JUDGE

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