

1
**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

**BEFORE
HON'BLE SHRI JUSTICE VISHAL MISHRA**

ON THE 14th OF OCTOBER, 2022

MISC. CRIMINAL CASE No. 36078 of 2022

BETWEEN:-

**ASHISH PATEL S/O SHRI RAMESHWARI PATEL, AGED
ABOUT 23 YEARS, OCCUPATION: LABOUR R/O VILLAGE
BAMURHA P.S. AMANGANJ DISTRICT PANNA (M.P.)**

.....APPLICANT

(BY SHRI SANJAY K. PATEL - ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH THROUGH POLICE
STATION DEVENDRA NAGAR DISTRICT PANNA (M.P.)**

.....RESPONDENT

(BY SHRI S.S.PARIHAR - PANEL LAWYER)

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

ORDER

This is the fourth bail application under Section 439 of Cr.P.C filed by the applicant for grant of bail.

The applicant has been arrested on 21.09.2021 by Police Station Devendra Nagar, District Panna in connection with Crime No.404/2021 for the offence punishable under Section 306, 201 of Indian Penal Code and Section 67(A) of the Information Technology Act.

This repeat application has been on the ground that the earlier applications were rejected. This application has been filed on the ground of the custody period of the present applicant coupled with the fact that no offence under Section 306 of Indian Penal Code is made out against the present applicant. There were Panchayat proceedings which

took place owing to the reason of viraling of vulgar videos of the deceased. The statements of father was read over by the learned counsel for the applicant stating therein that the husband has denied to keep the wife owing to her character. Thereafter, she has consumed some poisonous substance and committed suicide. There is no element of abetment in the entire statement made by the father. He has placed reliance upon the judgment passed by the Hon'ble Bombay High Court in the case of **Laxman Irappa Hatti and Suresh Vs. The State of Maharashtra** reported in **2004 CriLJ 3802**, **Sanju @ Sanjay Singh Sengar vs State Of M.P.** reported in **2002 Vol.5 SCC 371** and **Amalendu Pal @ Jhantu vs State Of West Bengal** reported in **AIR 2010 SC 512** wherein it is categorically held that in absence of any ingredients of Section 107, no offence under Section 306 of Indian Penal Code is made out. The applicant has been falsely implicated in the case and he has not committed any offence in any manner. There is no further requirement of custodial interrogation of the present applicant. The applicant is the first offender. He is ready to abide by all the terms and conditions that may be imposed by this Court while considering his bail application. In view of the aforesaid, he prays for grant of bail.

State counsel has vehemently opposed the contention and has submitted that there are specific allegation against the present applicant of viraling the video of the deceased. He has read over the statement of the father to demonstrate the same but the fact remains that in the entire statement of the father there is no element with respect to abetment for committing suicide. He could not substantiate that the ingredients of Section 107 are made out in the facts and circumstances of the case to enable the prosecution to fulfill the ingredients of Section 306 of the I.P.C. The State counsel also could not dispute the fact that the applicant is the first offender.

Considering the over all facts and circumstances of the case and without commenting upon the merits of the case, this Court deems it appropriate to allow this

application. Accordingly, the application is allowed **subject to verification of the fact that the applicant is the first offender**. He is directed to be released on bail on furnishing surety bond of **Rs.50,000/- (Rupees Fifty Thousand Only)** with one local surety in the like amount to the satisfaction of trial Court.

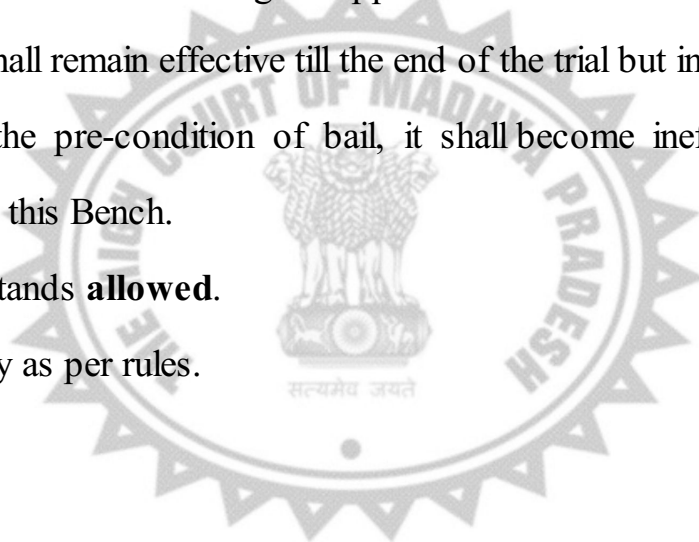
It is also directed that the applicant shall comply with the conditions as enumerated under Section 437(3) Cr.P.C.

In view of the outbreak of 'Corona Virus disease (COVID-19)' the concerned jail authorities are directed to follow the directions/guidelines issued by the Government with regard to 'COVID-19' before releasing the applicant.

This order shall remain effective till the end of the trial but in case of bail jump and breach of any of the pre-condition of bail, it shall become ineffective and cancelled without reference to this Bench.

Application stands **allowed**.

Certified copy as per rules.



(VISHAL MISHRA)
JUDGE

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