

Salman Khan vs The State Of Madhya Pradesh on 7 September, 2021

Author: Rohit Arya

Bench: Rohit Arya

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The High Court Of Madhya Pradesh

MCRC-42525-2021

(SALMAN KHAN Vs THE STATE OF MADHYA

Indore, Dated : 07-09-2021

Shri Mukesh Sinjonia, learned counsel for the a

Shri A.S. Sisodia, learned Govt. Advocate for t

Heard through Video Conferencing.

This is second repeat bail application under Section 439 Cr.P.C. filed on behalf of the applicant. His first application was dismissed as withdrawn on 31.07.2021 in M.Cr.C. No.36700/2021. The applicant is in custody since 19.09.2020 in connection with Crime No. 95/2020 registered at P.S., Khargone, District-Khargone for the offence punishable under Sections 457 and 380 of IPC.

A s per prosecution story, applicant alongwith other co-accused persons has committed a theft in the complainant's house on 15.06.2020. During investigation, few stolen articles were recovered from the present applicant. Accordingly, present applicant has been implicated in the case.

Investigation is complete. Challan has been filed.

Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated. Applicant is in custody since 19.09.2020. Investigation is complete and chargsheet has been filed. He is no more required for custodial investigation. Moreso, looking to prevailing Covid-19 situation, trial is not likely to conclude early in the near future. Similarly situated co-accused Shahid has already been enlarged on bail by order dated 12.08.2021 passed in M.Cr.C. No. 38416/2020. Hence, under such circumstances, the applicant may be enlarged on bail on such terms and conditions this Court deems fit and proper.

P e r contra, learned Panel Lawyer opposes the bail application supporting the order impugned with the submission that applicant has as many as eight criminal antecedents ; one of the year 2019 and seven is of the year 2020 of similar nature. He is a habitual offender. Hence, no indulgence is 2 MCRC-42525-2021 warranted in the matter of grant of bail to the applicant.

In response, learned counsel for the applicant submits that seven cases allegedly registered against the applicant are registered at the same police station on the same date and the date of arrest is also same.

At this stage, on instructions learned counsel for the applicant submits that applicant has done introspection and looking to grave critical, social and economic condition of poor persons living in old age homes, vidhwa ashrams volunteers to deposit an amount of Rs.35,000/- (Rupees Thirty Five Thousand only), in the office of Jila Bal Sanrakshan Samiti, District-Khargone (Bank of India Account No.990010110004521 IFSC Code No. BKID0009900) to be utilized for providing clothing, food and other essential amenities required for the old age persons, vidhwas, orphans living in orphanages including physically challenged persons etc and also to sufferers of Covid-19 pandemic as well as for providing facility of Bio gas plant (Gobar Gas) to poor villagers/agriculturists for enabling them to avail the LPG gas for domestic purpose. However, the aforesaid deposit of amount may not influence the pending trial but is only, for enlargement of applicant on bail.

This Court appreciates the gesture shown by learned counsel for the applicant. Upon hearing counsel for the parties but without touching merits of the contentions so advanced, regard being had to the fact that applicant is in jail since 19.09.2020, investigation is complete and chargesheet has been filed, he is not required for custodial investigation, co-accused Shahid has already been enlarged and due to Covid-19 pandemic, possibility of delay in conclusion of trial cannot be ruled out. Hence, he is held entitled for enlargement on bail.

Consequently, the application of the applicant filed under Section 439 of the Criminal Procedure Code, 1973 is hereby allowed. It is directed that the applicant be released on bail furnishing personal bond in the sum of Rs.2,00,000/- (rupees two lacs only) with one solvent surety in the like 3 MCRC-42525-2021 amount to the satisfaction of the learned Trial Court and on the condition that he shall remain present before the Court concerned during trial and also comply with the conditions enumerated under Section 437 (3) of Criminal Procedure Code, 1973 with following further conditions:

(i) the applicant shall prepare a demand draft of Rs.35,000/- (Rupees Thirty Five Thousand only) of any nationalized bank in favour of Jila Bal Sanrakshan Samiti, District-Khargone (Bank of India Account No.990010110004521 IFSC Code No. BKID0009900) for the purpose of providing basic amenities, clothing, food/food items and other essential amenities required for old age people living in old age homes, vidhwas living in vidhwa aashrams, orphans living in orphanage in the city in dire need of such amenities/facilities and to sufferers of Covid-19 pandemic as well as for providing facility of Bio gas plant(Gobar Gas) to poor villagers/agriculturists for enabling them to avail the LPG gas for domestic purpose. The amount so deposited shall have no bearing on merits of the trial.

(ii)(a) the applicant shall submit the aforesaid original demand draft alongwith copy of the order passed today through his counsel before the Principal Registrar of this Bench, for keeping the same in his safe custody.

(ii)(b) as and when directed the Principal Registrar shall seek instructions/directions through PUD from this Court for handing over the demand drafts to the concerned authority in that behalf.

(ii)(c) The Registry is directed to accept the original demand drafts without mentioning the account number therein. However, ensure that the same is in relation to the present case.

(iii) the aforesaid authority is at its discretion to utilize the amount so deposited as and where it is required upon verification. The Collector, Khargone is also directed to maintain a separate account (for production of the record as and when directed for).

(iv) the applicant shall mark his attendance before the concerned Police Station on 1st, 2nd, 3rd and 4th Saturday of every month

4 MCRC-42525-2021 between 10.00 AM to 12.00 Noon.

(v) the applicant will abide by the terms and conditions of various circulars and orders issued by the Government of India and the State Government as well as the local administration from to time in the matter of maintaining social distancing, physical distancing, hygiene, etc., to avoid proliferation of Novel Corona virus (COVID-19);

(vi) the concerned jail authorities are directed that before releasing the applicant, the medical examination of the applicant be conducted through the jail doctor and if it is prima facie found that he is having any symptoms of COVID-19, then the consequential follow up action or any further test required be undertaken immediately. If not, the applicant shall be released on bail in terms of the conditions imposed in this order.

(vii) in the event of violation of any of the terms and conditions of the order by the applicant, the prosecution is at liberty to seek cancellation of the bail granted to the applicant.

(viii) in future, if the applicant is found to be involved in such nature of cases or any other similar criminal cases or misuse the bail granted by this Court, this bail order shall stand cancelled automatically.

Observations made on facts touching merits of the case are only for the purpose of deciding the bail application and shall not have any bearing on the pending trial.

Learned Panel Lawyer is directed to send an e-copy of this order to all the concerned including the concerned Station House Officer of the police station for information and necessary action.

E-certified copy as per rules.

(ROHIT ARYA) JUDGE