

Rakesh @ Hari Om vs The State Of Madhya Pradesh on 7 August, 2024

Author: Vishal Mishra

Bench: Vishal Mishra

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MCR

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE VISHAL MISHRA
ON THE 7th OF AUGUST, 2024
MISC. CRIMINAL CASE No. 20589 of 2024
RAKESH @ HARI OM
Versus
THE STATE OF MADHYA PRADESH

Appearance:

Shri Shishir Verma - Advocate for applicant.

Shri A.S. Baghel - Public Prosecutor for State.

ORDER

This is the third bail application under Section 439 of Cr.P.C filed by the applicant for grant of bail. His earlier applications were dismissed as withdrawn.

The applicant has been arrested on 20.11.2021 by Police Station Budera, District Tikamgarh (M.P.) in connection with Crime No.187/2021 for the offence punishable under Sections 498-A, 304-B, 302 and 34 of the Indian Penal Code and Sections 3 & 4 of Dowry Prohibition Act.

This application has been filed on the ground that there is no specific allegation against the present applicant regarding commission of offence. The applicant is the husband of the deceased and till date the material witnesses have not been examined before the trial court. The applicant cannot be made to be sufferer for no fault of his own. Even statements of parents of the deceased have not been recorded. The applicant is the first offender and is in custody since 20.11.2021. There is no further requirement 2 MCRC-20589-2024 of custodial interrogation. He is ready to abide by all the terms and conditions that may be imposed by this Court while considering his bail application. On these grounds, he prays for grant of bail.

Per contra, learned counsel appearing for the State has vehemently opposed the prayer stating that the statements of three witnesses have been recorded before the trial court and all possible efforts are being made by the prosecution agency to record statements of remaining witnesses. It is argued that the family members of the deceased are made as witnesses Nos.16 & 17 in the trial programme, however, summons have not been issued on earlier occasion by the trial court, therefore, there is no occasion for them to appear before the trial court. He assures this court summons will be issued by

the trial court for recording the statements of the family members of the deceased and they will be produced before the trial court for recording their evidence. They have categorically stated against the present applicant as is reflected from their statements recorded under Section 161 of the Cr.P.C. The applicant being the husband of the deceased is having utmost responsibility towards his wife. Cause of death is aphasia due to hanging within 24 hours. A query was made from the concerning doctor and a report has been received, which is also against the present applicant. On these grounds he prays for dismissal of this application.

Considering the overall facts and circumstances of the case, coupled with the fact that the applicant is the husband of the deceased and statements of witnesses recorded under Section 161 of the Cr.P.C. are levying specific allegation regarding demand of dowry and harassment being caused to the 3 MCRC-20589-2024 deceased, this court is not inclined to allow this application at this stage. The bail application is accordingly rejected.

It is noted herein that in the cases of dowry death normally the trial court has to record evidence of the family members of the deceased, but surprisingly in the present case as is informed by the prosecution that although the family members have been incorporated as witnesses Nos.16 and 17 in the trial programme, but till date summons have not been issued to them for recording their statements. Allegations of demand of dowry and harassment soon before the death are required to be taken note of in such cases. Under these circumstances, the trial court is directed to expedite the proceedings of the trial and record statements of family members of the deceased at the earliest.

Let a copy of this order be sent to the trial court for necessary compliance.

(VISHAL MISHRA) JUDGE sj