

Rahul Yadav vs The State Of Madhya Pradesh on 23 July, 2024

Author: Sanjeev S Kalgaonkar

Bench: Sanjeev S Kalgaonkar

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IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

MCRC No. 7161 OF 2024
(RAHUL YADAV VS. THE STATE OF MADHYA PRADESH)

Dated: 23-07-2024

Shri B.K. Tyagi - Advocate for the applicant.

Shri Lokendra Shrivastava- Public Prosecutor for the State

This first application has been filed by applicant under Section 438 of CrPC for grant of anticipatory bail to the applicant, who is apprehending his arrest in connection with Crime No.350 of 2023, registered at Police Station Sirol, District Gwalior for offence punishable under Sections 384, 389, 294, 506 and 34 of IPC.

As per the case of prosecution, Ashish Soni, Amit Soni and Rajkumar Raikwar submitted a written complaint to CSP, University, Gwalior, inter-alia, alleging extortion of Rs.23,00,000/- by the Police Officers of Crime Branch. It is stated in the complaint that they work with Nitin Yadav for online gaming site at Flat No. E-105 at M.K.City, Gwalior. On 16.09.2023, they were working in the flat for online gaming site, four persons entered the flat and introduced themselves as Police Officers of Crime Branch, Gwalior and threatened that they are working for illegal gaming. Those persons have taken their mobiles and transferred Rs.23,00,000/- from online account. Amount of Rs.23 lakhs from the account No.100209131144 which is in the name of Shivam Naresh Patwar and from the account No.100209131120 which is in the name of Anand Ahirwar was transferred to an unknown account. Thereafter, one of them informed Police Station- Sirol, Gwalior. Police Station- Sirol arrested them. On such allegations, PS-Sirol, Gwalior registered FIR at Crime No.350/2023 for offence punishable under Sections 384, 389, 294, 506 and 34 of IPC against Mukul, Rahul (applicant), Vikash and one another. Statements of witnesses were recorded. CCTV footage from the spot of incident was seized. The offenders were identified as Mukul Yadav, Rahul Yadav and Kamal Kishor Yadav. Applicant is apprehending his arrest in the matter.

Learned Counsel for the applicant, in addition to the grounds mentioned in the application, submits that applicant is falsely implicated in this matter. The complainants were operating illegal gaming site and involved in online betting. Police Station- Sirol has registered offence against them. This complaint is filed as counterblast to the information given to PS- Sirol. Learned counsel contends that no extortion was committed by the applicant or the co-accused. Applicant is working as

Constable in Police. No criminal antecedent is reported against the applicant. There is no likelihood of his absconsion leaving his family, home and job. Applicant is constantly co- operating in the investigation and he has appeared before the Investigation Officer in compliance with the direction. None of the offences alleged against the applicant is punishable with imprisonment for more than seven years therefore, in the light of the judgment rendered by the Apex Court in the case of Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273, there is no need for arrest of the applicant. Therefore, applicant may be extended the benefit of anticipatory bail.

Per contra, learned counsel for State opposes the anticipatory bail application on the ground of gravity of alleged offence and submits that applicant was not posted at Gwalior. He along with other co-accused entered the Flat, extorted money and took away cash, mobile-phone, laptop and other materials from the flat in possession of the complainant. Custodial interrogation against the applicant would be required. Co-accused Mukul Yadav is still absconding, therefore, applicant may not be extended the benefit of anticipatory bail.

On request of the Court, learned counsel for the applicant went through the case-diary and fairly stated that the money trail revealed by the investigation does not lead to applicant. No incriminating article is recovered till date.

Learned counsel for the State contends that although the applicant has appeared before the Investigation Officer, however, he did not assist in recovery of incriminating articles.

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 grant anticipatory bail to the applicant. Thus, the application is allowed.

Accordingly, it is directed that in the event of arrest of applicant, applicant- Rahul Yadav shall be released on bail in relation to Crime No.350 of 2023, registered at Police Station Sirol, District Gwalior for offence punishable under Sections 384, 389, 294, 506 and 34 of IPC, 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 Officer making arrest, for compliance with the following conditions: (For convenience of understanding by accused and surety, the conditions of bail are also reproduced in Hindi as under):-

(1) Applicant shall make himself available for investigation as may be directed by the officer, in-charge of investigation;

(1) vUos"k.kdrkZ iqfyl vf/kdkjh ds funsZ'kkuqlkj vUos"k.k gsrq vkosnd miyC/k 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 the police officer;

(3) vkosnd izdjz.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] neko Mkyus ;k /kedkus dk iz;kl ugha djsxkA (5) Upon submission of final report under Section 173 of Cr.P.C/193 of Bhartiya Nagarik Suraksha Sanhita, 2023, the applicant shall furnish fresh personal bond and solvent surety of aforementioned amount to the satisfaction of the Trial Court, if so directed and thereafter, shall remain present on every date of hearing as may be directed by the concerned Court;

(5) /kkjk 173 na-iz-la-@193 Hkkjrh; ukxfjd lqj{kk lafgrk] 2023 ds rgr vafre izfrosnu izLrqr gksus ij] ;fn ,slk funsZf'kr fd;k tkrk gSZ] vkosnd fopkj.k U;k;ky; dh larqf"Vizn iwoZ mYysf[kr jkf'k dk uohu oS;fDrd ca/ki= ,oa izfrHkw ca/ki= izLrqr djsxk vkSj mlds mijkar lacaf/k U;k;ky; ds funsZ'kkuqlkj lquokbZ dh izR;sd frfFk ij mifLFkr jgsxkA (6) During trial, the applicant shall ensure due compliance of provisions of Section 309 of Cr.P.C./346 of Bhartiya Nagarik Suraksha Sanhita, 2023 regarding examination of witnesses in attendance;

(6) fopkj.k ds nkSjku] mifLFkr xokgksa ls ijh{k.k ds laca/k esa vkosnd /kkjk 309 na-iz-la-

@346 Hkkjrh; ukxfjd lqj{kk lafgrk] 2023 ds izko/kkuksa dk mfpr vuqiky lqfuf'pr djsxkA This order shall be effective till the end of trial. However, in case of breach of any of the precondition of bail, the Trial Court may consider on merit cancellation of bail without any impediment of this order.

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 pd