

Ajay @ Bhola vs The State Of Madhya Pradesh on 16 October, 2023

Author: Sanjeev S Kalgaonkar

Bench: Sanjeev S Kalgaonkar

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IN THE HIGH COURT OF MADHY PRADESH
AT G W A L I O R
BEFORE
HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

ON THE 16th OF OCTOBER, 2023

MISCELLANEOUS CRIMINAL CASE No. 36523 of 2023

BETWEEN: -

AJAY @ BHOLA S/O SHRI RAGHUNANDAN
YADAV, AGED ABOUT 30 YEARS, RESIDENT OF
VILLAGE DHOBIKHEDA POLICE STATION
SHAMSHABAD DISTRICT VIDISHA (MADHYA
PRADESH)

.....APPLICANT

(SHRI ATUL GUPTA - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH INCHARGE
POLICE STATION THROUGH POLICE STATION
SHAMSHABAD DISTRICT VIDISHA (MADHYA
PRADESH)

.....RESPONDENTS

(SHRI RAMADHAR CHOUBEY - PUBLIC PROSECUTOR
SHRI SUNIL SONI - ADVOCATE FOR THE COMPLAINANT)

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

ORDER

This first bail application has been filed by applicant under section 439 of the Code of Criminal Procedure, 1973 for grant of bail in connection with Crime No.240/2023 registered at Police Station Shamshabad, District Vidisha (M.P.) for offence punishable under Sections 498-A and 304-B/ 34 of the IPC and Section 3/4 of the Dowry Prohibition Act. The applicant is in judicial custody since 05/08/2023.

As per the case of prosecution, on 12/07/2023 Rajmohan Yadav informed Hemant Kumar, ASI of PS Barsiya, District Bhopal that his sister Priyanka Yadav was married to Vijay Yadav on 22/02/2023. On 12/07/2023, elder brother of Vijay Yadav informed on phone that Priyanka Yadav has consumed some poisonous substance, so he rushed to the Government Hospital, Barsiya where Priyanka Yadav was found dead. On such information, Police Station Shamshabad, District Vidisha registered unnatural death intimation under Section 174 of the Cr.P.C. During inquest, postmortem examination of dead body of Priyanka was conducted. Medical Officer suspected death due to poisonous substance. Viscera was preserved. Statement of witnesses have been recorded. Applicant Ajay @ Bhola was arrested on 05.08.2023, he is in custody ever since. Charge sheet has been filed on 04/10/2023. When Priyanka Yadav was brought to Government Hospital, Barsiya, the duty Doctor recorded her dying declaration in presence of witnesses Khemchand and Sonu Gurjar. Further, Hemant Singh- ASI of PS Barsiya recorded dying declaration of deceased by videography.

Learned Counsel for the applicant, in addition to the grounds mentioned in the application, submits that applicant has falsely been implicated in the matter for the reason that he is elder brother of Vijay Yadav, husband of the deceased- Priyanka. Learned counsel referring to dying declaration recorded by doctor and videographed by Hemant Kumar, ASI and its transcript, submits that deceased has alleged harassment and ill- treatment against her husband. Learned counsel for the applicant further submits that even in the transcript of videography in which statement of deceased was recorded on 24/05/2023 by her brother Pradeep Yadav, deceased has alleged harassment and maarpeet (assault) by her husband and mother in law. Although, she has mentioned involvement of brother in law (Jeth) Ajay @ Bhola but no specific allegations against Jeth were made in her statement. Learned counsel contends that applicant has been involved only after death of deceased on the allegation of harassment with regard to demand of dowry.

Learned counsel further submits that no criminal antecedent is reported against the applicant. Applicant is agriculturist by profession. There is no likelihood of absconding leaving behind his family and property. Final report has been filed. Both the parties belong to same socio- economic status, therefore, there is no likelihood of tampering with the evidence. Jail incarceration is causing hardship to the applicant. The trial would take time to complete. Therefore, applicant may be extended the benefit of bail.

Per contra, learned Counsel for the State ably assisted by counsel for the objector oppose the bail application on the ground of gravity of alleged offence. Learned counsel submits that relatives of deceased have alleged harassment in relation to demand of dowry against the applicant also, therefore, applicant may not be granted bail.

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 release the applicant on bail. Thus, the application is allowed.

Accordingly, it is directed that the applicant AJAY @ BHOLA shall be released on bail in connection with Crime No.240/2023 registered at Police Station Shamshabad, District Vidisha (M.P.) for

offence punishable under Sections 498-A and 304-B/ 34 of the IPC and Section 3/4 of the Dowry Prohibition Act, 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 Trial Court, for compliance with the following conditions, :

1. The applicant shall remain present on every date of hearing as may be directed by the concerned Court;
2. The applicant shall not commit or get involved in any offence of similar nature
3. The 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 investigating officer;
4. The applicant shall not directly or indirectly attempt to tamper with the evidence or allure, pressurize or threaten the witness;
5. The applicant shall ensure due compliance of provisions of Section 309 of Cr.P.C regarding examination of witness in attendance;

This order shall be effective till the end of trial. However, in case of breach of any of the pre-condition of bail, it shall become ineffective without reference to the Court.

CC as per rules.

(SANJEEV S KALGAONKAR) JUDGE Prachi PRACHI MISHRA 2023.10.17 10:27:53 -07'00'