

## **Suresh Kumar Gupta (Bhujwa) vs The State Of Madhya Pradesh on 9 February, 2016**

MCRC-346-2016

(SURESH KUMAR GUPTA (BHUJWA) Vs THE STATE OF MADHYA PRADESH)

09-02-2016

Shri Siddharth Singh, learned counsel for the applicant.  
Shri Manoj Kushwaha, learned Panel Lawyer for the  
respondent/ State.

Heard.

This is first application filed under Section 439 of the Cr.P.C. for grant of bail to the applicant who has been arrested in connection with Crime No. 337/2014, registered at P.S.- Govindgarh, District-Rewa for the offence punishable under Section 394 of the IPC.

Earlier application of the applicant was dismissed as withdrawn vide order dated 19/10/2015 passed in M.Cr.C. No. 17765/2015.

It is submitted by the counsel that another co-accused Santosh Kumar Bhujwa has been enlarged on bail by this Court vide order dated 18/11/2015 in M.Cr.C. No. 19932/2015 and there is a parity between the present applicant and co-accused Santosh Kumar Bhujwa.

Learned Panel Lawyer informed the court that the evidence against the present applicant is that he was driving the truck which was used by the accused persons to commit robbery. From the possession of the applicant an amount of Rs. 2500/- has been seized. Mr. Santosh Kumar Bhujwa had participated in robbery. The court passed following order in the case of Santosh Kumar Bhujwa:-

â Shri V. C. Rai, counsel for the applicant. Shri Ajay Tamrakar, Panel Lawyer for the respondent/State.

Heard learned counsel for the parties. This is repeat application of the applicant whereas, one of his application was dismissed on 10.8.2015 being withdrawn.

The applicant is in custody since 6.4.2015 relating to Crime No.337/2014 registered at Police Station Govindgarh, District Rewa for offences punishable under Sections 394, 395 and 397 of I.P.C.

Learned counsel for the applicant submits that applicant is a reputed citizen of the locality, who has no criminal past alleged against him. There was no named FIR against the applicant though it was alleged that he was identified in the test identification parade, but such parade was held after 4 weeks of the arrest of the applicant and there was opportunity to the victim to view the applicant

while he was produced before the Magisterial Court. Though robbery was done of various articles, but cash of Rs.2000/- was recovered from the applicant. Cash is not identifiable article and it is of the applicant himself. Chain of circumstantial evidence is broken but the applicant is falsely implicated in the matter. It appears that the actual culprits could not be arrested and therefore, the applicant is taken in custody.

Consequently, applicant prays for bail. Learned Panel Lawyer opposes the application. Considering the submissions made by learned counsel for the parties, looking to the facts and circumstances of the case including the gravity of offence, without expressing any view on the merits of the case, I am of the view that application under Section 439 of Cr.P.C. filed by the applicant viz. Santosh Kumar Bhujwa may be accepted.

Consequently it is hereby allowed. It is directed that present applicant be released on bail on his furnishing a bond in sum of Rs.40,000/- (Rupees forty thousand) with one surety bond of the same amount to the satisfaction of the trial Court to appear before the trial Court on the dates given by the concerned Court.

This order shall be effective till the end of trial but in case of bail jump, it shall become ineffective.

Certified copy as per rules.â Looking to the facts of the case but without expressing any opinion on the merits of the case, this application is allowed.

It is directed that on furnishing a personal bond in the sum of Rs. 50,000/- (Rs. Fifty Thousand only) by the applicant along with one solvent surety in the like amount to the satisfaction of Trial Court, the applicant be released on bail with a direction to appear before the trial court on the date of the trial.

The applicant shall abide by the following conditions of 437 (3) of Cr.P.C. as under:-

- (a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,
- (b) that such person shall not commit any offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and
- (c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

Certified copy as per rules.

(S.K. GANGELE) JUDGE MISHRA