

Maresh vs The State Of Madhya Pradesh on 22 May, 2020

Author: Rajeev Kumar Shrivastava

Bench: Rajeev Kumar Shrivastava

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M.Cr.C. No.13591/2020

HIGH COURT OF MADHYA PRADESH

M.Cr.C. No. 13591/2020

(Maresh vs. State of M.P.)

Gwalior, Dated:22/05/2020

Shri R.K. Sharma, learned Senior Counsel with Shri V.K.

Agrawal, counsel for the applicant.

Shri C.P. Singh, learned Panel Lawyer for respondent/State.

Matter is heard through Video Conferencing.

I.A. No. 3051/2020, an application for urgent hearing and I.A. No. 3052/2020, an application for exemption from affixing the Bar stamp on the affidavit, are taken up, considered and allowed for the reasons mentioned therein. The applicant is exempted from affixing the Bar stamp on the affidavit.

This is the first bail application u/S.439 Cr.P.C filed by the applicant for grant of bail.

Applicant has been arrested on 01/01/2020 by Police Station City Kotwali Morena, District Morena (M.P.) in connection with Crime No.1329/2019 registered for offence under Sections 304-B, 498-A and 34 of the IPC.

Learned counsel for the applicant Maresh has submitted that the applicant has been falsely implicated. He has not committed any offence. He is the husband of the deceased who died by hanging. There is no any specific allegation against the applicant for demand of dowry. Only omnibus allegations have been made. The marriage between the applicant and the deceased was solemnized on 18/4/2018 in "Samuhik Vivah Sammelan" and in such type of marriage, dowry is not permitted. At the time of death of the deceased, merg intimation was got recorded by the applicant himself and the funeral was also done in presence of the parents of the deceased. There is no any prior complaint for demand of dowry. It is further submitted that now the investigation has been completed and charge-sheet has been filed. Other co-accused persons of this case have already been granted bail by this Court and by the trial Court. Hence, prays for grant of bail. He further undertakes to abide by all the terms and conditions of guidance, circulars and directions issued by Central Government, State Government as well as Local Administration regarding measures in respect of COVID-19 Pandemic and maintain hygiene in the vicinity while keeping physical distancing.

Counsel for the State opposed the prayer and submitted that the deceased died on 15/11/2019 by hanging herself and on the same day, as per the statement given by the mother of the deceased, the deceased contacted her mother and informed that her in-laws are harassing her for demand of dowry and soon after that she committed suicide. Hence, prayed to reject the bail application of the applicant.

Heard learned counsel for the parties at length through VC and considered the arguments advanced by them and perused the available record.

The Supreme Court by order dated 23-3-2020 passed in the case of IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS in SUO MOTU W.P. (C) No. 1/2020 has directed all the States to constitute a High Level Committee to consider the release of prisoners in order to decongest the prisons. The Supreme Court has observed as under :

"The issue of overcrowding of prisons is a matter of serious concern particularly in the present context of the pandemic of Corona Virus (COVID

- 19).

Having regard to the provisions of Article 21 of the Constitution of India, it has become imperative to ensure that the spread of the Corona Virus within the prisons is controlled. We direct that each State/Union Territory shall constitute a High Powered Committee comprising of (i) Chairman of the State Legal Services Committee, (ii) the Principal Secretary (Home/Prison) by whatever designation is known as, (ii) Director General of Prison(s), to determine which class of prisoners can be released on parole or an interim bail for such period as may be thought appropriate. For instance, the State/Union Territory could consider the release of prisoners who have been convicted or are under trial for offences for which prescribed punishment is up to 7 years or less, with or without fine and the prisoner has been convicted for a lesser number of years than the maximum. It is made clear that we leave it open for the High Powered Committee to determine the category of prisoners who should be released as aforesaid, depending upon the nature of offence, the number of years to which he or she has been sentenced or the severity of the offence with which he/she is charged with and is facing trial or any other relevant factor, which the Committee may consider appropriate."

In view of the fact that other co-accused persons have already been granted bail and due to COVID-19 condition, the trial is getting delayed, without commenting upon the merits of the case, the application is allowed and it is hereby directed that the applicant shall be released on bail on his furnishing personal bond of Rs.1,00,000/- (Rupees One Lakh only) with one solvent surety of the like amount to the satisfaction of the Chief Judicial Magistrate of the concerned district. Chief Judicial Magistrate shall ensure that after furnishing bail, the bail papers are sent to the Court concerned.

In view of COVID-19 pandemic, the Jail Authorities are directed that before releasing the applicant, his Corona Virus test shall be conducted and if he is found negative, then the concerned local administration shall make necessary arrangements for sending the applicant to his house, and if he is found positive then the applicant shall be immediately sent to concerning hospital for her/his treatment as per medical norms. If the applicant is fit for release and if he is in a position to make his personal arrangements, then he shall be released only after taking due travel permission from local administration. After release, the applicant is further directed to strictly follow all the instructions which may be issued by the Central Govt./State Govt. or Local Administration for combating the Covid19. If it is found that the applicant has violated any of the instructions (whether general or specific) issued by the Central Govt./State Govt. or Local Administration, then this order shall automatically lose its effect, and the Local Administration/Police Authorities shall immediately take him in custody and would sent him to the same jail from where he was released.

This order will remain operative subject to compliance of the following conditions by the applicant :-

1. The applicant will comply with all the terms and conditions of the bond executed by her;
2. The applicant will cooperate in the investigation/trial, as the case may be;
3. The applicant will not indulge herself/himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicant shall not commit an offence similar to the offence of which he/she is accused;
5. The applicant will not move in the vicinity of complainant party and applicant will not seek unnecessary adjournments during the trial;
6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be; and
7. The applicant will inform the SHO of concerned police station about him/his residential address in the said area and it would be the duty of the Public Prosecutor to send E-copy of this order to SHO of concerned police station for information.

Application stands allowed and disposed of.

E- copy of this order be sent to the trial Court concerned for compliance.

Certified copy/ e-copy as per rules/directions.

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