

Gotiya @ Hoshiyarsingh vs The State Of Madhya Pradesh on 31 December, 2018

HIGH COURT OF MP BEHCN AT INDORE

MCRC No.50733/2018

Gotiya @ Hoshiyarsingh vs. The State of M.P.

Indore: Dated:-31.12.2018

Shri N. Dave, learned counsel for the petitioner.

Shri Bhuvan Gautam, learned Public Prosecutor for the respondent/State.

Heard with the aid of case diary.

ORDER

1. This is second bail application under Section 439 of Cr.P.C. in connection with Crime No.104/2018 under Section 394 and 395 of IPC registered at Police Station-Jobat District-Alirajpur. First application was dismissed as withdrawn vide order dated 28.09.2018 passed in MCRC No.38189/2018.
2. Co-accused persons Ramesh and Balla @ Ballu have already been granted bail by this Court vide order dated 24.08.2018 and 28.08.2018 respectively.
3. The prosecution has come before this Court with a case that on 10.04.2018, when the complainant who is a whole-seller was coming back after recovery of cost of cosmetics sold to the retailers, some unknown miscreants robbed him and during the course of robbery, beat him also. Total Rs.1,76,526/- were looted from him. Rs.23,500/- were recovered from the present petitioner. He was placed before the complainant for identification and was identified by him.
4. Contention of the learned counsel for the petitioner is that the petition is languishing in jail since 07.05.2018. He was put before the complainant for identification after almost 2 and a half months and it is mentioned in the identification memo that one Praheri (Guard) was also present during identification period. Therefore, he may be granted bail.
5. The Public Prosecutor has opposed the bail application.
6. Considering the contentions of both the parties and the HIGH COURT OF MP BEHCN AT INDORE evidence available against the petitioner coupled with the period of incarceration, I deem it proper to release the accused on bail. Therefore, without commenting on merits of the case, the application is allowed.
7. It is directed that the petitioner Gotiya @ Hoshiyarsingh be released from custody on his furnishing a personal bond in the sum of Rs.30,000/- (Rupees Thirty thousand) with one solvent surety of the like amount to the satisfaction of the Trial Court for his appearance before the Trial Court as and when required further subject to the following conditions:-

(i) The petitioner shall co-operate with the trial and shall not seek unnecessary adjournments on frivolous grounds to protract the trial;

(ii) The petitioner shall not directly or indirectly allure or make any inducement, threat or promise to the prosecution witnesses, so as to dissuade them from disclosing truth before the Court;

(iii) The petitioner shall not commit any offence or involve in any criminal activity;

(v) In case of his involvement in any other criminal activity or breach of any other aforesaid conditions, the bail granted in this case may also be cancelled.

(Virender Singh) V. Judge amit