

Santosh Medhe vs The State Of Madhya Pradesh on 11 January, 2022

Author: Virender Singh

Bench: Virender Singh

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MCrC-60131-2021

THE HIGH COURT OF MADHYA PRADESH
MCrC No.60131 of 2021
(Santosh Medhe vs The State of Madhya Pradesh)

Jabalpur, Dated 11.01.2022.

Heard through Video Conferencing.

Shri Ankit Saxena, counsel for the petitioner.

Shri Shailesh Khampariya, Panel Lawyer for the State.

ORDER

Crime No. Under section Police Station Arrest Date 608/2021 294, 323, 365, Hanumanganj 12.06.2021 384, 386 and Distt. Bhopal 120B of IPC and (M.P.) Section 25 of the Arms Act.

2. As declared by the petitioner, this is second petition under Section 439 Cr.P.C. The first application (MCrC No.44929/2021) was dismissed as withdrawn on 16.11.2021 with liberty to file a fresh application after examination of the complainant and other material witnesses before the trial Court.

3. The sole ground taken by the petitioner this time is that the complainant Kapil Pastore has been examined before the trial Court as PW2 and he has not implicated the petitioner in the crime, therefore, he be granted bail.

4. The Id. Panel Lawyer opposed the bail, stating that still the cross-examination of the complainant is pending. The petitioner is a habitual criminal. The allegation against him is that he actively participated in the crime of extortion by torture to the extreme. It is submitted that call details of the relevant point of time is not available in the case diary and he has to inquire about the same from the Investigating Officer. Therefore, he be not granted bail.

5. It is further pointed out by the Id. Panel Lawyer that the petitioner has following criminal record :

MCrC-60131-2021 Sl.No. Crime No. Offences Police Station 1 401/2009 294, 323, 506, 34 IPC 2 147/2010 294, 323, 506 IPC 3 26/2011 294, 323, 506, 34 IPC 4

704/2013 294, 323, 506, 34 IPC 5 516/2015 294, 323, 506, 34, 295A IPC 6 232/2016 294, 323, 34 IPC 7 645/2016 294, 323, 506 IPC 8 567/2017 294, 323, 506 IPC Govindpura 9 577/2017 294, 323, 506, 324 IPC Distt. Bhopal 10 581/2017 25 of Arms Act 11 256/2018 294, 323, 336, 506 IPC 12 54/2020 34 of M.P. Excise Act 13 618/2020 25 of Arms Act 14 617/2020 13 of Public Gambling Act

6. The prosecution case, in substance, is that pretending that they want to buy some medicines, a group of perpetrators kidnapped the complainant Kapil Pastor on 11.06.2021. They first called him to his shop and on his arrival, they forced him to sit in their swift desire car being driven by the co-accused Karan Rathore. They took him to a deserted place which were ruins of some old building. On the way, they thrashed him by kicks and fists and also abused him. Co-accused Rahul gagged his mouth, Yash wielded a country made pistol on his head due to which he lost consciousness. When he regained consciousness, found himself in an abandoned remains of some old building. He was surrounded by co-accused persons Ritik, Rahul, Yash and Mayank. They again abused him. Rahul beat him with a stick and Mayank & Ritik beat him with belt. They were asking him to follow their instructions. Rahul and Yash demanded Rs.5 Lakhs under the threat that otherwise they will implicate him in some case of supply of illegal firearms or selling fake/duplicate MCrC-60131-2021 Remdesivir injections. Yash forced him to have country made pistol in his hand and shot a video forcing him to state that the firearms belonged to him and he used to supply the same. Rahul shot another video forcing him to state that he is indulged in the sell of duplicate Remdesivir injections. They further tortured him to extort Rs.5 Lakhs.

7. During this entire episode, Yash and Rahul were talking to some Vora Bhai (present petitioner) on mobile. Vora Bhai also joined them after some time. They all beat him and tortured him to give the money. After sometime they called some Alto Car and forced him to sit on its back seat. Rahul and Yash sat on his both sides. Ritik sat on the front seat and one of them sat on the driver's seat. Vora Bhai started guiding them by his Activa scooter bearing registration No.MP 04 UG 4115 and they all took him to a flat somewhere in Katara Hills and locked him there. Here again they thrashed him and forced him to sit under the stairs and poured water on him and also gave him electric shocks. Here they again shot video on his mobile and forced him to state that he is indulged in black-marketing of Remdesivir injections. Yash and Rahul forwarded the video on their mobile phones and threatened him that in case he will not give the money, they will viral the video.

8. Harassed, complainant, finding no other way, agreed to give them Rs.50,000/- then and there. He also agreed to pay Rs.70,000/- to 80,000/- later on and requested them to let him go. Thereafter, the offenders returned his mobile phone. He called his friends Vivek, Devendra and Sumit and requested them to send Rs.10,000/- each. Vivek sent him Rs.10,000/- on "Phone Pay", Devendra sent Rs.2000/-. Thereafter, he transferred Rs.24,000/- using his credit card through Paytm. He again transferred Rs.45,000/- through "Phone Pay" on the mobile of Rahul. He again transferred Rs.4000/-

MCrC-60131-2021 to Rahul in the same manner. On their instructions, he further transferred Rs.530/- to some fast food vendor through his phone and requested them to leave him stating that he does have more money to transfer.

9. Acceding his request, they allowed him to go under the threat that if he does not pay Rs.2 Lakhs or discloses the incident before any one, they will implicate him in some false case by handing over the video shot by them to the Crime Branch. Rahul, Ritik, Yash alongwith driver dropped him near his house at about 2:30 by Alto Car. He did not disclose the incident before his family members but when his friends Faiz and Arman came to his house, he revealed the entire incident before them who thereafter disclosed the same before his family members. They decided to approach the police and thereafter the complainant lodged the present FIR.

10. Having regard to the status pointed out by the Id. Panel Lawyer and other facts and circumstances of the case, still I am not inclined to allow bail to the petitioner. Therefore, the petition stands dismissed. However, liberty is granted to the petitioner to approach the trial Court again for seeking bail after completing the cross- examination of the complainant before it and if such an application is filed, the trial Court shall decide the same on merit without getting influenced from the earlier order passed by it or by this Court.

(Virender Singh) JUDGE vinod