

Asfak Khan vs The State Of Madhya Pradesh on 31 August, 2020

Author: Sheel Nagu

Bench: Sheel Nagu

1

MCRC-30752-2020

THE HIGH COURT OF MADHYA PRADESH

MCRC-30752-2020

(ASFAK KHAN & ANOTHER Vs THE STATE OF MADHYA PRADESH)

Gwalior, Dt. 31.08.2020

Shri Rajmani Bansal, Advocate for the petitioners.

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

Learned counsel for the rival parties are heard through video conferencing.

This is first bail application u/S.439 CrPC filed by the petitioners for grant of bail.

The petitioners have been arrested on 16.06.2020 by Police Station Lateri, District Vidisha (M.P.) in connection with Crime No.101/2020 registered in relation to the offences punishable u/Ss.294, 307, 324, 323, 506/34 of IPC.

Learned Panel Lawyer for the State opposed the application and prayed for its rejection by contending that on the basis of the allegations and the material available on record, no case for grant of bail is made out.

Petitioners are alleged with attempt to murder. Petitioners are in custody since 16.06.2020. The charge-sheet in the matter has been filed on 12.08.2020. Petitioners have no criminal antecedents. The assault made in this case was on the head by petitioners with lathi but no grievous injury was sustained by the injured.

Considering the above and the fact that early conclusion of the 2 MCRC-30752-2020 trial is a bleak possibility and prolonged pre- trial detention being an anathema to the concept of liberty and the material placed on record does not disclose possibility of petitioners fleeing from justice and looking to the ongoing Covid-19 pandemic crises, this Court is inclined to extend the benefit of bail to the petitioner.

Accordingly, without expressing any opinion on merits of the case, this application is allowed and it is directed that the petitioners be released on bail on furnishing a personal bond in the sum of Rs.

25,000/- (Rs. Twenty Five Thousand only) in case of each petitioner with one solvent surety of the like amount to the satisfaction of the concerned Magistrate.

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

1. The petitioners will comply with all the terms and conditions of the bond executed by them;
2. The petitioners will cooperate in the investigation/trial, as the case may be;
3. The petitioners will not indulge themselves in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The petitioners shall not commit an offence similar to the offence of which they are accused;
5. The petitioners will not seek unnecessary adjournments during the trial;
6. The petitioners will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be;
7. The learned concerned Magistrate and the prosecution are directed to ensure following of Covid-19 precautionary protocol

3 MCRC-30752-2020 prescribed from time to time by the Supreme Court, the Central Govt. and as well as the State Govt during release, travel and residence of the petitioners during period of bail as a consequence of this order.

8. The petitioners have gracefully volunteered to donate Rs.5000/- (Rs. Five Thousand Only) each in the account of the High Court Bar Association, Gwalior for the purpose of assistance and rehabilitation of those members of the Bar, who are facing financial distress due to Lockdown and restrictive functioning of the courts owing to ongoing Covid-19 pandemic. This Court has no manner of doubt that the office bearers and the Senior members of the Bar shall ensure that the donation reaches the rightful and deserving claimants. Let the donation be deposited within seven (7) working days from the date of release.

9. The petitioners as a Shiksha Swayamsevak shall render physical and financial assistance to government primary school situated nearest to residence of petitioners for ensuring hygiene and sanitation and for removing deficiencies of infrastructural amenities in the said school from the skill/resources of the petitioners. [;kfpdkdrkkz ,d f'k{kk lo;alksod ds :i esa vius fuokl ds fudv voflkr ljdkjh izkfkfed fo|ky; esa lopnrk vksj vkjksx; dks lqfuf'pr djus ds fy, 'kkjhfd ,oa forrh; lgk;rk iznku djsxk r'fkk vius dks'ky o lalk/kuksa ls mdr fo|ky; esa volajpukred lqfo/kkvksa dh dfe;ksa dks nwj

djsxka] The petitioners after selecting a particular Govt. Primary School shall inform about the same to the office of Gram Panchayat (in case of rural area) and/or Ward Officer of the concerned ward (in case of urban area), within whose territorial jurisdiction the said school is situated. [;kfpdkdrkZ ,d fof'k"V ljdkjh Ldwy dk p;u djus ds i'pkr~ blds ckjs esa xzke iapk;r ds dk;kZy; ¼xzkeh.k {ks= ds ekeys esa½ vkSj@;k lEcaf/kr okMZ ds okMZ vf/kdkjh ¼'kgjh {ks= ds ekeys esa½ ftlds {ks=kf/kdkj esa mDr Ldwy vofLFkr gS] dks lwfpr djsxka] 4 MCRC-30752-2020 It will be joint responsibility of Sarpanch and Secretary of said Gram Panchayat (in case of rural area) and/or Ward Officer of the concerned ward (in case of urban area) to preserve the said information provided by the petitioner and pass it on the concerned PLV. [;g lEcaf/kr okMZ ds okMZ vf/kdkjh ¼'kgjh {ks= ds ekeys esa½ vkSj@;k mDr xzke iapk;r ds ljiap vkSj lfpo ¼xzkeh.k {ks= ds ekeys esa½ dh la;qDr ftEesnkjh gksxh fd] ;kfpdkdrkZ }kjk iznRr lwpuk dks lajf{kr djs ,oa lEcaf/kr ih ,y oh dks gLrkarfjr djsaA] The registry of this Court shall communicate this order through Legal Aid Officer, SALSA, Gwalior to the Collector, District Education Officer, Block Education Officer of the district/block concerned for information and compliance.

A copy of this order be supplied to the Legal Aid Officer, SALSA, Gwalior who is directed to communicate this order to the Paralegal Volunteers of the area concerned to verify as to whether petitioners have complied with condition No.9 or not and submit report once every month.

In case, report regarding condition No.9 is not filed or report is found to be wanting in any manner then Registry is directed to list this matter as PUD before appropriate Bench.

A copy of this order be sent to the Court concerned for information.

C.c as per rules.

(Sheel Nagu) Judge Aman Date: 2020.09.01 18:57:07 -07'00'