

Sanjay Sharma vs The State Of Madhya Pradesh on 30 September, 2021

Author: Vivek Rusia

Bench: Vivek Rusia

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THE HIGH COURT OF MADHYA PRADESH
BENCH AT INDORE
(S.B.: HON'BLE Mr. JUSTICE VIVEK RUSIA)
M.Cr.C. No.46610/2021

Applicant:- Sanjay Sharma, S/o Shri Vishambhar Dayal Sharma,
Age-32, Occupation-Agriculturist, R/o- Village
Pidavali, Post Dixitpura, District-Morena (M.P.)
Versus

Respondent:- State of M.P. through P.S. Bank Note Press,
District-Dewas (M.P.)

For Applicant (s) : Mr. Abhishek Arjaria,
For Respondent (s) : Ms. Mamta Shandilya, G.A.

ORDER

Indore, Date: 30.09.2021 :

This is first bail application filed by the applicant under section 438 of the Cr.P.C. in which applicant is apprehending his arrest in connection with Crime No.83/2021 registered at police station- Bank Note Press District- Dewas for the offence punishable under sections 420, 269, 272, 273 of Indian Penal Code & sections 26(2)(i), sections (2)(ii), 51 and 59 of Food Safety & Standard Act,2006.

(2). As per the prosecution story, on 30/01/2021, the police intercepted the vehicle bearing registration no. MP-41-LA-2811 loaded with milk cans. The co-accused Abhishek was found in the vehicle along with the driver, who disclosed his name Dilip Rathore and other person has disclosed his name Abhishekh Goswami. Prima facie, the police found the milk to be adulterated, accordingly, they were arrested and their memo under sections 27 of the Indian Evidence Act were recorded. In their memo,s they disclosed that Rakesh Giri Goswami is having a dairy and from where these cans were loaded. The police searched the premises of Rakesh Giri and seized chemical and milk. Samples were taken and sent to FSL, Bhopal. The present applicant has been implicated in this case only on the basis of memorandum statement of Satendra Singh @Bacchu, and Rakesh Giri Goswami recorded under section 27 of the Evidence Act. After receiving the FSL report,the police filed the charge sheet.

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(3). Shri Abhishek Arjaria learned counsel for applicant submits that applicant has been falsely been implicated in this case. He has been made accused only on the basis of memorandum statement of Satendra Singh @ Bacchu, and Rakesh Giri Goswami recorded under section 27 of the Evidence Act that they made payment of Rs.5,000/- for providing the glucose chemical on 24.10.2020 thereafter, Rs.7,000/- was paid on 22.11.2020. The amount was paid in his S.B.I. A/c No.3383918766.

Learned counsel for the applicant submits that this applicant has entered into agreement dated 20.06.2020 with Satendra Singh @ Bacchu for purchase of his Alto Car in Rs.3,00,000/- in which Surendra Sharma stood as a guarantor for payment of Rs.1,00,000/- and for the payment of advance money this amount of Rs.12,000/- was transferred to his account and not for the sale of glucose chemical. He has no criminal past, and he is not indulging into the business of sale of glucose chemical or any other chemical. All the offences are bailable in nature except offence under section 420 of the IPC therefore, law laid down by the Apex Court in case of Arunesh Kumar V/s State of Bihar in the year 2014 (8) SCC 273 would apply and the offence punishable under Food Safety and Standard Act jail sentence is not mandatory. No one has submitted a complaint that the adulterated milk was supplied. He is ready to cooperate with the investigation. The charge sheet has been filed on 31.01.2021. (4). Learned Govt. Advocate for the respondent/State opposes the bail application by submitting that co-accused Satendra Singh@ Bacchu and Rakesh Giri Goswami were in jail in respect of theft of milk. Satendra Singh@ Bacchu introduced Rakesh Giri Goswami with Sanjay Sharma(applicant) for providing glucose chemical. Sanjay Sharma provided glucose chemical from Morena and for which payment was made. Satendra Singh@ Bacchu collected the chemical and provided it to Rakesh Giri Goswami. The offence is serious in nature however, as per the FSL report the milk was found sub-standard. The chemical was used for increasing the fat in the milk.

(5). Considering the facts and circumstances of the case, without

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commenting on the merits of the case, the anticipatory bail (M.Cr.C. No.46610/2021) is allowed. It is directed that in the event of arrest of the applicant-Sanjay Sharma in connection with the aforesaid crime number, she shall be released on bail upon his furnishing personal bond in the sum of Rs.50,000/-(Rupees Fifty Thousand) with one surety in the like amount to the satisfaction of the arresting officer. This order shall be governed by the following conditions:-

(a) the applicant shall co-operate with the investigation and make herself available for interrogation by a police officer as and when required;

(b) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(c) If the applicant is found involved in any criminal case of the same nature during this bail period, this order granting the benefit of anticipatory bail shall be liable to be cancelled;

(d) he shall not leave the territory of India without the prior permission of the Court.

Certified copy as per rules.

(VIVEK RUSIA) JUDGE Ajit AJIT DN: c=IN, o=HIGH COURT OF MADHYA PRADESH BENCH INDORE, ou=HIGH COURT OF MADHYA PRADESH BENCH INDORE, postalCode=452001, st=Madhya Pradesh, KAMALAS 2.5.4.20=156c9cedca1b74d671db9f220a5e3ed6cba241effad892107d95ef0a1afc55b4, pseudonym=CFDFD9C36711CA738F527A5D61A1EE901C09EF29, ANAN serialNumber=7F0BEE2D78BD57DA058F3247441C87E7E0817FB61F5E2ABCAEE63CAA7B3 B9FF, cn=AJIT KAMALASANAN Date: 2021.10.04 16:53:33 +05'30'