

Vishnu Gupta @ Lalla vs The State Of Madhya Pradesh on 3 January, 2022

Author: Anjali Palo

Bench: Anjali Palo

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MCRC-56672-2021

The High Court Of Madhya Pradesh

MCRC No. 56672 of 2021

(VISHNU GUPTA @ LALLA Vs THE STATE OF MADHYA PRADESH)

Jabalpur, Dated : 03-01-2022

Shri Ashok Lalwani, counsel for the applicant.

Ms. Shikha Baghel, Panel Lawyer for the State.

Case diary is available.

This is the second application filed by the applicant under Section 439 of the Cr.P.C. seeking regular bail. Earlier application M.Cr.C.

No.38334/2021 was dismissed on merit by this Court vide order dated 10.8.2021

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The applicant is in custody since 22.1.2021 in connection with Crime No.80/2021 registered at P.S. Ranjhi, District Jabalpur for the offences punishable under Sections 420, 272 of the IPC and Sections 51, 52, 26(2)(ii) of the Khadya Suraksha Aur Manak Adhiniyam.

As per allegation, the applicant stocked artificial Ghee by mixing Vanaspati Ghee and Soyabean oil to deceive the public at large to gain illegal profit.

Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the case. Except the offence under Section 420 of the IPC, remaining offences are bailable. The arrest of the applicant is hit by the guidelines laid down by the Supreme Court in the case of Arnesh Kumar Vs. State of Bihar reported in 2014 (8) SCC 273. The guidelines laid down in the aforesaid case has not been followed in the case. Offences under sections 51 and 52 of the Food Safety and Standards Act, 2006 are punishable with penalty only which may extend to five lakh and three lakh rupees respectively. So far as offence under Section 420 of the IPC is concerned, no case under Section 420 of the IPC is made out against the applicant because in the present 2 MCRC-56672-2021 case the applicant has not induced any person to deceive. It is further submitted that at the time of consideration of earlier application, the aforesaid legal aspect could not be brought into the notice of this Court. The punch witnesses have been examined in the case. The applicant is in custody for about a year and trial will take considerable time to conclude, therefore, he may be released on bail.

Learned Panel Lawyer submits that the applicant is a habitual offender. Previously 6 cases were registered against him and two of them were registered for similar offence. Proceedings under the National Security Act were also initiated against the applicant.

I have heard learned counsel for the parties at length. Previously six cases were registered against the applicant and out of them, two cases were registered under the same provision. In the present case, two big size aluminum container containing 120 Kgs. Ghee each, one small container containing 40 Kg Ghee, 380 Packets containing 500 gram Ghee each, two containers containing 15 Kgs. Ghee each, one container containing 5 Kgs Ghee, one mixer, 46 empty containers of Vanaspati Dalda, 4 containers filled with Vanaspati Ghee etc. were recovered from the possession of the applicant. As per the allegations, the applicant was preparing and selling artificial Ghee in large quantity in order to obtain illegal profit, which could adversely affect the health of a large number of people in the society. Prima facie, there is sufficient material against the applicant under Section 415 of the IPC, therefore, it cannot be said that offence under Section 420 is not made out against the applicant. Apart from that, there is no change in the circumstances after dismissal of the earlier application.

Looking to the gravity of offence, I do not find it to be a fit case to release the applicant on bail. The application is hereby dismissed.

3 MCRC-56672-2021 (SMT. ANJULI PALO) JUDGE PB