

Shubhashish Sanyal vs The State Of Madhya Pradesh on 29 October, 2021

Author: Rajendra Kumar Srivastava

Bench: Rajendra Kumar Srivastava

1

MCRC-50114-2021

The High Court Of Madhya Pradesh

MCRC No. 50114 of 2021

(SHUBHASHISH SANYAL Vs THE STATE OF MADHYA PRADESH)

Jabalpur, Dated : 29-10-2021

Shri Manish Datt, learned Senior Advocate with Shri Nishant Datt,

learned counsel for the applicant.

Ms. Seema Jaiswal, learned P.L. for the respondent/State.

Shri Manoj Kumar Soni, learned counsel for the objector. This is first bail application filed on behalf of the applicant under Section 439 of the Code of Criminal Procedure.

The applicant is in custody since 28.09.2021 in connection with Cr i me No.528/2021 registered at Police Station-Shahpura, District- Jabalpur (M.P.) for the offences punishable under Sections 420, 467 and 468 of the IPC.

A s per prosecution case, on 27.09.2021, an information was received at Police Station Shahpura from the Crime Inspection Squad stating therein that present applicant brought various sacks of poultry feeds from Narmada Gelatin Factory Mirganj, Jabalpur and mixed lime powder dust, DCP, Dicalcium Phosphate and other elements in the alleged sacks. The same was done fraudulently by present applicant in order to deceive people and by manufacturing and feloniously selling the feeds to the poultry farms. It is further alleged that the refined sacks of poultry feed were converted into adulterated sacks of poultry feed. Thereafter, police party made raid in the house of present applicant where some laborers were found to be adulterating powder in the poultry feed sacks. Thereafter, a case has been registered against the present applicant and other co-accused persons.

Learned counsel for the applicant submits that the applicant has been falsely implicated in this case. Nothing incriminating has been 2 MCRC-50114-2021 seized from the possession of present applicant. Applicant is aged about 61 years and suffering from old age infirmity. As per the prosecution, the applicant was doing the said adulteration in the name of Narmada Gelatin Factory but no complaint is made by the said firm against the applicant. For the sake of arguments, if the prosecution case is taken into consideration, at the most, the case would fall under the Food Safety and Standards Act, 2006 or the Prevention of Cruelty to Animals Act, 1960. The learned counsel for the applicant also read the Section 11-C of Prevention of Cruelty to Animals Act, 1960 in which the punishment of fine is prescribed on the first attempt. Therefore, the penal provision of IPC do not

apply in this matter. He has also pointed out the procedure to launch the prosecution under said special Act. Conclusion of trial will take time for final disposal. There is no probability of his absconding or tampering with the evidence of the prosecution. On these grounds, learned counsel for the applicant prays for grant of bail to the applicant. In support of his contention, he has filed the various judgments passed by the Hon'ble Supreme Court as well as this High Court in the case of Pepsico India Holdings Private Ltd. v. Additional Chief Judicial Magistrate reported in 2018 SCC OnLine Utt 1155, Silver Drop Food And Beverages (p.) Ltd. and Anr. v. State of Assam and Ors. reported in (2020)4 Gauhati Law Reports 738 and in the case of Aashish v. state of M.P. in Criminal Revision No.804/2020 order dated 25.02.2020, respectively.

Per contra, learned counsel for the respondent/State as well as learned counsel for the objector opposes the said bail application submitting that all accused persons were very well involved in the alleged offences by mixing of substandard material in poultry feed sacks. Therefore, he is not entitled for grant of bail.

Considering the contention of both the parties and the fact that 3 MCRC-50114-2021 applicant has no previous criminal antecedent, he is aged about 61 years suffering from old age infirmity, he is in custody since 28.09.2021, conclusion of trial will take time for final disposal and also this fact that there is no probability of his absconding or tampering with the evidence of the prosecution witnesses, it is not appropriate to keep the applicant in jail whole the trial, but without commenting on merits of the case, application of the present applicant under Section 439 of the Cr.P.C. seems to be acceptable. Consequently, it is hereby allowed.

It is directed that applicant-Shubhashish Sanyal be released on bail on his furnishing a personal bail bond in the sum of Rs. 50,000/-

(Rupees Fifty Thousand Only) with one solvent surety in the like amount to the satisfaction of the learned trial Court for her appearance before the trial Court on the dates given by the concerned Court. It is directed that the petitioner shall comply with the provisions of Section 437(3) of the Cr.P.C. In view of the outbreak of 'Corona Virus disease (COVID-19)' the applicant shall also comply the rules and norms of social distancing.

Further, in view of the order passed by the Hon'ble Supreme Court i n suo motto W.P.No.1/2020, it would be appropriate to issue the following direction to the jail authority :-

1. The Jail Authority shall ensure the medical examination of the applicant by the jail doctor before his release.
- 2 . The applicant shall not be released if he is suffering from 'Corona Virus disease'. For this purpose appropriate tests will be carried out.
- 3 . If it is found that the applicant is suffering from 'Corona Virus disease', necessary steps will be taken by the concerned authority by placing him in appropriate quarantine facility.

Certified copy as per rules.

4 MCRC-50114-2021 (RAJENDRA KUMAR SRIVASTAVA) JUDGE sp