

Dheerendra vs The State Of Madhya Pradesh on 10 January, 2024

Author: Vijay Kumar Shukla

Bench: Vijay Kumar Shukla

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IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA
ON THE 10th OF JANUARY, 2024
MISC. CRIMINAL CASE No. 56355 of 2023

BETWEEN: -
DHEERENDRA S/O KRISHNAMOHAN ASTHANA, AGED
ABOUT 44 YEARS, OCCUPATION: SERVICE A-1, UDYOG
VIHAR, GREATER NOIDA, DIST. GAUTAM BUDDH
NAGAR (UTTAR PRADESH)

(BY SHRI AKASH SHARMA - ADVOCATE)

AND
THE STATE OF MADHYA PRADESH THROUGH FOOD
AND DRUG ADMINISTRATION DEPARTMENT DIST.
KHARGONE (MADHYA PRADESH)

(BY SHRI TARUN PAGARE - PUBLIC PROSECUTOR)

This application coming on for admission this day, the
following:

ORDER

This is Ist bail application under Section 438 of Cr.P.C for grant of anticipatory bail in connection with crime No.37/2013 dated : not mentioned, registered at P.S. - Food and Drug Administration Department District - Khargone for offences punishable under Sections 26(2)(2) of Food Safety and Standard Act 2006.

2. As per prosecution case, on 12/6/2013 Mayuri Dongre being a Food and safety officer inspected at Raj Traders, Bahety Tower Jawahar Marg where the proprietor Ashish Mahajan was present and at Raj traders Priya Gold biscuits were available for sale and on purchase Priya Gold Classic Cream Pinapple Sandwhich Biscuit, it was informed to the proprietor Ashish Mahajan that the sample of biscuit was sent to the laboratory and after testing the biscuits, they were found below standard, hence the case was registered against Ashish Mahajan, Omprakash and Priya Garg and one Dheerendra Asthana of the company Surya Food and Agro Limited. The case was registered at crime

no 37/2013 U/s 26 (2)(2) of Food Safety And Standard Act 2006, and after investigation the information was sent to the concerning accused, and the complaint was filled against the accused persons. The matter was tried against Ashish Mahajan, Omprakash and Priya Garg. Since the accused Dheerendra Asthana was not present hence arrest warrant was issued against him, the anticipatory bail was filed before the trial court which was rejected on 09/08/2023 against which the present bail application has been filled.

3. Counsel for the applicant submits that the applicant is wholesaler of the said article. The offence registered against the applicant is bailable offence. He appeared before the trial Court on 14/11/2017 and thereafter an application for exemption from personal appearance was filed and due to miscommunication the applicant got impression that he has been exempted from personal appearance. Thereafter, due to Covid-19, he could not appear before the trial Court and, therefore, could not contact his counsel. There was no communication from his counsel also about the next dates. There was bonafide reason to not appear before the Trial Court. He submits that the applicant will appear before the trial Court on 29/1/2024 and shall continue to appear before the Trial Court without committing any default. He will co- operate with the trial .

4. Counsel for the State submits that in the Trial Court, the applicant could not submit reasonable cause for non appearance for such long period and, therefore, the Trial Court has rightly rejected the application for grant of anticipatory bail.

5. After hearing learned counsel for the parties and considering the submissions of counsel for the applicant and the undertaking on behalf of the applicant that he shall appear on 29.1.2024 and all the dates as fixed by the trial Court without committing any default, I am of the view that the applicant is entitled for grant of bail.

6. It is directed that in the event of arrest, applicant- Dheerendra shall be released on bail on furnishing a personal bond in a sum of Rs.1,00,000/- (Rs. one lakh Only) with one local surety in the like amount to the satisfaction of arresting officer. The applicant shall further abide by the other conditions enumerated in sub-section (2) of Section 438 of Cr.P.C.

7 . It is made clear that if the applicant commits any default in appearance before the trial Court, the trial Court shall proceed for his arrest in accordance with the law.

8. A typed copy of this order is being forwarded to the Office of the Advocate General, on their email address, for intimation to the Police Station concerned.

9. With the aforesaid, the application is allowed and disposed off.

Certified copy as per rules.

(VIJAY KUMAR SHUKLA) JUDGE Pramod