

Jagdish Dhakad vs The State Of Madhya Pradesh on 31 January, 2022

Author: Rajeev Kumar Shrivastava

Bench: Rajeev Kumar Shrivastava

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The High Court Of Madhya Pradesh

MCRC No. 1300 of 2022

(JAGDISH DHAKAD Vs THE STATE OF MADHYA PRADESH)

Gwalior, Dated : 31-01-2022

Heard through Video Conferencing.

Shri Anil Mishra, learned counsel for the applicant.

Shri Alok Sharma, learned Public Prosecutor for the respondent/State.

This is the seventh application under Section 439 of CrPC for grant of bail.

Applicant has been arrested on 04/01/2021 in connection with Crime No.3/2021 registered at Police Station Pahadgarh, District Morena (M.P.) for offences punishable under Sections 420, 272, 273 of the IPC and Sections 51, 57, 59, 63 of the Food Safety and Standards Act, 2006.

It is submitted by learned counsel for the applicant- Jagdish Dhakad that this is the seventh bail application of the applicant. Earlier two applications were dismissed as withdrawn by this Court. It is further submitted that the applicant is in custody since 4/1/2021 i.e. more than a year. The trial Court has framed the charges only under Sections 420, 272, 273 of the IPC. The FSL report received is in favour of the petitioner as only sub-standard milk has been recovered along-with the fact that witnesses relating to seizure memo have turned hostile and they have not supported the prosecution case. The offences registered under Sections 272, 273 of the IPC are bailable. The applicant is ready and willing to abide by any condition which may be imposed by this Court in case of grant of bail. Considering the aforesaid, learned counsel prayed for grant of bail to the applicant.

Learned counsel for the State opposed the prayer and submitted that this is the seventh bail application of the applicant. Earlier third bail application filed on behalf of the applicant was rejected by this Court considering all the merits of the case, thereafter, there is no change circumstance under which this application could be considered. Initially, the charge-sheet was filed under Sections 420, 272, 273 of the IPC and Section 51, 57, 59, 63 of the Food Safety and Standards Act, 2006.

Thereafter, now charges have been framed against the applicant only under Sections 420, 272, 273 of the IPC and the trial Court has not assigned any judicious reason for non-framing of charges under Section 51, 57, 59, 63 of the Food Safety and Standards Act, 2006. Considering the nature and

gravity of the offence along-with the fact that FSL report is also against the applicant wherein it is reflected that formalin was found in the milk, learned State counsel prayed for rejection of this seventh bail application.

In reply, learned counsel for the applicant submits that as at the time of framing of charges, the trial Court perused the complete record and found that no prima facie case is made out under the Food Safety and Standards Act, 2006, therefore, charges have been framed only under Sections 420, 272, 273 of the IPC and now the aforesaid sections are only to be considered while considering the present bail application. The applicant is in custody since last more than one year and trial will take its own time. Hence, again prayed for grant of bail.

Heard learned counsel for the parties and perused the case diary. On perusal of the case diary as well as documents available on record, it is evident that no cogent reason or finding has been assigned by the JMFC concerned with regard to non-framing of charges against the applicant for the offence under Sections 51, 57, 59, 63 of the Food Safety and Standards Act, 2006. Therefore, it is directed that an explanation of Judicial Magistrate First Class Jaura, District Morena be called for through District Judge (Inspection), as to why and for what reasons charges have not been framed against the applicant for the offence under Sections 51, 57, 59, 63 of the Food Safety and Standards Act.

Let the explanation be submitted positively before the next date of hearing.

List this case on 11/02/2022.

Registry is directed to send the copy of this order to District Judge (Inspection) as well as JMFC concerned for strict compliance.

(RAJEEV KUMAR SHRIVASTAVA) JUDGE PAWAN KUMAR pwn*2022.02.01 10:21:04 +05'30'