

Ramavtar Agrawal(Adukia) vs The State Of Madhya Pradesh on 29 October, 2021

Author: Rajendra Kumar Srivastava

Bench: Rajendra Kumar Srivastava

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MCRC-50141-2021

The High Court Of Madhya Pradesh

MCRC No. 50141 of 2021

(RAMAVTAR AGRAWAL(ADUKIA) Vs THE STATE OF MADHYA PRADESH)

Jabalpur, Dated : 29-10-2021

Shri Sankalp Kochar, 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.

As per prosecution case, on 27.09.2021, an information was received at Police Station Shahpura from the Crime Inspection Squad stating therein that co-accused-Subhashish Sanyal 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 co-accused- Subhashish 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 co- accused Subhashish. 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. There is no allegation against the present applicant regarding manufacturing of alleged poultry feed and 2 MCRC-50141-2021 sale thereof. The name of the present applicant is not mentioned in the FIR. Only on the basis of memorandum statement of co-accused, present applicant has been made as an accused in the case. Nothing incriminating has been seized from the possession of present applicant. Applicant is aged about 72 years and suffering from old age infirmity. A s per the prosecution, the co-accused was doing the said adulteration in the name of Narmada Gelatin Factory and the present applicant was assisting co- accused being accountant. But no complaint is made by the said firm against the accused persons. 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. As per the applicant, 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 3 MCRC-50141-2021 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 applicant has no previous criminal antecedent, he is aged about 72 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-Ramavtar Agrawal (Adukia) 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.

4 MCRC-50141-2021 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.

(RAJENDRA KUMAR SRIVASTAVA) JUDGE Digitally signed by SAVITRI PATEL Date: 2021.10.29 18:49:23 +05'30'