

Smt. Bhawna Rathore vs The State Of Madhya Pradesh on 22 April, 2021

Author: Sujoy Paul

Bench: Sujoy Paul

1 HIGH COURT OF MADHYA PRADESH : BENCH AT INDORE MCRC No.14012/2021 Smt. Bhawna Rathore Vs. State of MP Indore: Dated:-22/04/2021:-

Heard through Video Conferencing.

Shri Vivek Singh, learned counsel for the applicant. Shri Ayushman Choudhary, learned Panel Lawyer for the State. With consent, finally heard.

This is first bail application under Section 438 of Cr.P.C. for grant of anticipatory bail. Applicant is apprehending his arrest in connection with Crime No.82/2021 registered at Police Station- Manakchowk, Ratlam for the offence punishable under Section 420, 272, 273 of IPC.

2) Learned counsel for the applicant submits that applicant is a housewife and has no criminal record. As per prosecution story, some adulterated chilly was allegedly found in M/s. Raj Laxmi Home Industries. The alleged material has already been seized. The offences are taken care of by a specific Act namely, Food Safety and Standards Act, 2006. This Court in MCRC No.10194/2021 (Ashish vs. State of MP) decided on 16/03/2021 has already granted anticipatory bail to a similarly situated applicant. The applicant will participate in the investigation and will not tamper evidence or material. She may be given anticipatory bail.

3) The prayer is opposed by learned Panel Lawyer by contending that an adulterated material is produced/sold by showing it to be a different material, certainly Section 420 IPC is attracted.

4) The Apex Court in Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 has laid down the broad factors and parameters for the purpose of deciding an anticipatory bail. The same are as under:-

" 112. (i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

(ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone

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(iii) The possibility of the applicant to flee from justice;

(iv) The possibility of the accused's likelihood to repeat similar or other offences;

(v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;

(vi) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;

(vii) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;

(viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(ix) The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(x) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."

113. Arrest should be the last option and it should be restricted to those exceptional cases where arresting the accused is imperative in the facts and circumstances of that case. The court must carefully examine the entire available record and particularly the allegations which have been directly attributed to the accused and these allegations are corroborated by other material and circumstances on record."

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5) If present applicant is tested on the anvil of said principles, it will be clear that (i) incriminating material has already been seized by the prosecution and applicant will not be able to tamper those seized material. (ii) Applicant does not have any criminal record. (iii) No material is produced to indicate that applicant may commit similar offence. iv) Applicant is a housewife.

6) Considering the aforesaid, in my view, it is a fit case to grant anticipatory bail to the applicant. Accordingly, the bail application for anticipatory bail is allowed.

7) Accordingly, in the event of arrest, applicant-Smt. Bhawna Rathore S/o Premsingh Rathore be released on anticipatory bail on furnishing personal bond in the sum of Rs.50,000/- (Rs. Fifty Thousand) along with one surety in the like amount to the satisfaction of arresting officer for his appearance before the Investigating Officer during the course of investigation as and when directed. Conditions of Section 438(2) Cr.P.C. shall also apply on the applicant during currency of bail.

8) With the aforesaid, the application stands disposed of.

Certified copy, as per rules.

(SUJOY PAUL) JUDGE soumya