

**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE**

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

ON THE 22th OF MARCH, 2024

MISC. CRIMINAL CASE No. 6432 of 2024

BETWEEN:-

**NARESH @ BADSHAH S/O SHRI
RANVEER GURJAR, AGED 24 YEARS, R/O
VILLAGE MOROLI DISTRICT DHOLPUR
RAJSTHAN (RAJASTHAN)**

.....APPLICANT

(SHRI RAJMANI BANSAL- ADVOCATE)

AND

**STATE OF MADHYA PRADESH
THROUGH SHO POLICE STATION SARAI
CHHOLA DISTRICT MORENA (MADHYA
PRADESH)**

.....RESPONDENT

(SHRI NEERAJ DHAMANIYA – PANEL LAWYER)

*This application coming on for hearing this day, the court passed
the following:*

ORDER

This **second** bail application has been filed by applicant under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail in connection with Crime No.37/2023 registered at Police Station Saraicholla, District Morena (M.P.) for offence punishable under Sections

307, 147, 148, 149, 427 of IPC and Section 25/27 of Arms Act. The applicant is in judicial custody since 03.08.2023. First application was dismissed as withdrawn by this Court *vide* order dated 05.01.2024 passed in MCRC No.55299/2023.

As per the case of prosecution, Bhura S/o Rameshwar Gurjar reported to Police Station Saraicholla, District Morena on 02.03.2023 that on previous day i.e. on 01.03.2023, he along with his cousin Jitendra, Gabbar, Ramveer, Bhola were going to their home in Morena by Scorpio vehicle bearing No. RJ 11 UA 2678. As their vehicle reached near Holapura around 10:00 P.M. in the night, accused Dharmendra @ Lukka, Ravi, Naresh Gurjar (present applicant), Satish Gurjar, Tehsildar, Girraj, Buntu Gurjar, Ashu Gurjar, Rahul Gurjar, Pappi Gurjar, Yogi Gurjar,, Joga Yadav @ Pushpendra (present applicant) and Ugrasen Gurjar intercepted their vehicle. All the accused were armed with gun and *katta*. Lukka Gurjar fired on them. The bullet hit on right shoulder of Jitendra Gurjar. Ashu fired on them, bullet hit on the right side of abdomen of Gabbar. Girraj Gurjar fired on them, bullet hit on head of Gabbar. As they tried to escape, all the accused with intention to kill them fired on them. Their vehicle got damaged due to gun fire. Gabbar and Jitendra were admitted to District Hospital, Morena. They were referred for treatment to Gwalior. After admitting them at Gwalior, Bhura reported the incident

at Police Station Saraicholla. On such allegations, Police Station Saraicholla registered FIR at Crime No.37/2023 for offence punishable under Sections 307, 147, 148, 149, 427 of IPC and Section 25/27 of Arms Act. Applicant was arrested on 03.08.2023. He is in custody ever since. Other co-accused were arrested. Relevant recoveries have been made at their instance. On completion of investigation, charge sheet was filed on 23.05.2023 against the applicant and co-accused. Statements of all witnesses have been recorded. Investigation is pending against absconding accused.

Learned Counsel for the applicant, in addition to the grounds mentioned in the application, submits that applicant is falsely implicated in the matter merely on the basis of general and omnibus allegations of firing. No incriminating article is recovered at the instance of the applicant. He is falsely implicated for the reason that he is related to accused party. No further custodial interrogation is required in the matter. Applicant is aged around 24 years and is Agriculturist by profession. He has family to look after, therefore, there is no likelihood of absconsion leaving his family, home and profession. There is no likelihood of tampering with the evidence. Jail incarceration is causing hardship to the applicant. Co-accused Joga @ Pushpendra has already been granted benefit of bail by this Court *vide* order dated 29.11.2023 passed in MCRC

No.43972/2023. The trial would take time to complete. Therefore, applicant may be extended the benefit of bail.

Per contra, learned Counsel for the State ably assisted by learned counsel for the Objector opposes the bail application on the ground of gravity of alleged offence and prays for its rejection. Learned counsel submits that 08 criminal cases involving major offences were prosecuted against the applicant. Considering the alleged act and criminal antecedent, applicant may not be extended the benefit of bail.

In reply, learned counsel for the applicant submits that all other criminal prosecutions are pending for trial. He has never been convicted in any of the matter. Applicant has already undergone custody for seven months. He cannot be kept in jail custody for indefinite time.

Heard learned counsel for the parties and perused the case diary.

Considering the arguments advanced by both the parties and overall circumstances of the case, but without commenting on merits of the case, this Court is inclined to release the applicant on bail on stringent conditions considering his criminal history. Thus, the application is allowed.

Accordingly, it is directed that the applicant **Naresh @ Badshah** shall be released on bail in connection with Crime No.37/2023 registered at Police Station Saraicholla, District Morena (M.P.) for offence

punishable under Sections 307, 147, 148, 149, 427 of IPC and Section 25/27 of Arms Act, upon furnishing a personal bond in the sum of Rs. **1,00,000/- (Rupees One Lakh Only)** with **two solvent sureties of Rs.50,000/- each** of the same amount to the satisfaction of the Trial Court, for compliance with the following conditions, :**(For the sake of convenience of understanding by accused and surety, the conditions of bail are also reproduced in Hindi as under):-**

(1) Applicant shall remain present on every date of hearing as may be directed by the concerned court;

(1) आवेदक संबंधित न्यायालय के निर्देशानुसार सुनवाई की प्रत्येक तिथि पर उपस्थित रहेगा।

(2) Applicant shall not commit or get involved in any offence.

(2) आवेदक कोई अपराध नहीं करेगा या उसमें सम्मिलित नहीं होगा।

(3) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them/him/her from disclosing such facts to the Court or to the police officer;

(3) आवेदक प्रकरण के तथ्यों से परिचित किसी व्यक्ति को प्रत्यक्ष या अप्रत्यक्ष रूप से प्रलोभन, धमकी या वचन नहीं देगा, जिससे ऐसा व्यक्ति ऐसे तथ्यों को न्यायालय या पुलिस अधिकारी को प्रकट करने से निवारित हो।

(4) Applicant shall not directly or indirectly attempt to tamper with the evidence or allure, pressurize or threaten the witness;

(4) आवेदक प्रत्यक्ष या अप्रत्यक्ष रूप से साक्ष्य के साथ छेड़छाड़ करने का या साक्षी या साक्षियों को बहलाने—फुसलाने, दबाव डालने या धमकाने का प्रयास नहीं करेगा।

(5) During trial, the applicant shall ensure due compliance of provisions of Section 309 of Cr.P.C. regarding examination of witnesses in attendance;

(5) विचारण के दौरान, उपस्थित गवाहों से परीक्षण के संबंध में आवेदक धारा 309 दं. प्र.सं. के प्रावधानों का उचित अनुपालन सुनिश्चित करेगा।

6. The applicant shall mark his presence once in every week before the SHO, Police Station Saraicholla, District Morena till the injured and eye-witnesses are examined before the trial Court.

This order shall be effective till the end of trial. However, in case of breach of any of the precondition of bail, the Trial Court may consider on merit cancellation of bail without any impediment of this order.

The trial Court shall get these conditions reproduced on the personal bond by the accused and on surety bond by the surety concerned. If any of them is unable to write, the scribe shall certify that he had explained the conditions to the concerned accused or the surety.

C.C. as per rules.