

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

**BEFORE**

**HON'BLE SHRI JUSTICE ANAND PATHAK**

**ON THE 12<sup>th</sup> OF JULY, 2024**

**MISC. CRIMINAL CASE No. 23793 of 2024**

**NASIR HUSAIN**

**Vs.**

**STATE OF MADHYA PRADESH**

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**APPEARANCE:**

*Shri Arsad Ali – Advocate for the petitioner.*

*Shri APS Tomar – Public Prosecutor for the respondent/State.*

*Shri Brijesh Sharma and Shri D.S. Tomar – Advocates for the complainant.*

*Ms. Gayatri Survey – Victim is present in person.*

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**ORDER**

1. The applicant has filed this second bail application u/S.439 Cr.P.C for grant of bail. Applicant has been arrested on 17-03-2024 by Police Station Kotwali District Gwalior in connection with Crime No.32/2020 registered for offence under Sections 420, 467, 468 of IPC. His earlier bail application was dismissed as withdrawn.
2. It is the submission of learned counsel for the applicant that false case has been registered against him and he is suffering confinement since 17-03-2024 and charge-sheet has already been filed, therefore, chance of tampering with evidence is remote. It is further submitted that false case has been registered against him and he took loan from the Bank over the legitimate property kept as mortgage. Therefore, no case for implication

is made out. It was civil transaction wherein loan has been taken from the Bank. If any default is being committed then that can be recovered from him as borrower as per law. Thus, prayed for grant of bail.

3. Learned counsel for the respondent/State opposed the prayer and submitted that the case is of year 2020 and applicant is absconding for four years. Applicant is facing wrath of other criminal cases likewise Crime No.135/2015 for offence under Sections 420, 465, 467, 468, 471, 201, 34 of IPC and another case in respect of Section 354-A, 294, 506 of IPC. Besides other cases, allegations are serious in nature because he mortgaged the property on the basis of rent note of Ms. Survey whereas Ms. Survey never executed any rent note in favour of present applicant. Even in mortgage deed (Bandhak Patra) false information has been provided.
4. Learned counsel for the Bank also objected the bail application of the applicant and Shri Brijesh Sharma appeared on behalf of Bank submits that earlier also applicant committed fraud. This time also he took loan for business purpose for his firm M/s Millennium Marble in which he placed co-accused as Guarantor and place of business was referred as Ramdas Ghati, Jail Road, Lashkar district Gwalior whereas in bank, place is referred as property of Smt. Pushpmala Survey wife of late Tatyrao alias Mallarao Survey. Said rent note was never executed by the said lady, still rent note was prepared and placed before Bank for this purpose. When bank visited over the mortgaged property then Bank found that one Uma Soni was residing in the said house and she informed the Bank that said house has been purchased 5 years back by her. In short he prepared forged documents to get loan and then evaded

the liability.

5. Learned counsel for the other complainant Shri D.S. Tomar on behalf of victim Gayatri Survey opposed the submissions and submitted that looking to the contents of charge-sheet, it appears that applicant is mischievous and his bail application be rejected. Applicant forged the rent note of mother of Ms. Gayatri Survey.
6. Heard learned counsel for the parties at length and perused the case diary.
7. From perusal of case diary and nature of allegations against the applicant, it appears that allegations are serious in nature. Applicant along with one Mahendra Pratap earlier also committed same nature of offence. This time applicant took loan from M.P. State Cooperative Bank in which Mahendra Pratap stood as Guarantor and referred the address at Kampoo, Lashkar District Gwalior. When the applicant committed default, the Bank went to the place where they found that rent note executed was forged and therefore, it appears that no firm was working on the place which was mentioned in the Bank. All these facts were referred just to get loan. When the Bank visited the place which was mortgaged by the co-accused Mahendra Pratap then one Uma Soni was found to be in possession of the said premises.
8. In the permanent registration certificate of shop, address is Ramdas Ghati, Jail Road, Lashkar Gwalior whereas for loan purpose address at Kampoo, Lashkar Gwalior has been mentioned and that too with forged rent note. From the statements of Branch Manager, Pushpmala Raje Survey and Arun Rao (one of the witness of the alleged agreement) it transpires that the applicant by preparing forged rent note took loan from

the Bank. Arun Rao (witness of the alleged agreement) categorically denied his signature over the said agreement.

9. Looking to the nature of allegations and criminal record which applicant bears, this Court is of the considered view that no case for grant of bail is made out in favour of applicant, at this stage. Application sans merits and is hereby **dismissed**.

**(Anand Pathak)**  
**Judge**