



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

**BEFORE**

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**ON THE 14<sup>th</sup> OF OCTOBER, 2024**

**MISC. CRIMINAL CASE No. 40753 of 2024**

***GAMAR SINGH @ GAMARIYA***

*Versus*

***THE STATE OF MADHYA PRADESH***

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**Appearance:**

*Shri Vibhor Khandelwal, Advocate for the applicant.*

*Shri Apoorv Joshi- G.A. for the State.*

*Ms. ShiwaniKumawat- Advocate for the objector.*

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**ORDER**

They are heard. Perused the case diary/challan papers.

2. This is the applicant's **second** application filed under Section 483 of BharatiyaNagrik Suraksha Sanhita, 2023 (439 of Criminal Procedure Code, 1973), as he is implicated in connection with Crime No.105/2024 registered at Police Station Tanda, District Dhar (MP) for offence punishable under Sections 302 and 201 of the Indian Penal Code, 1860. The applicant is in custody since 17.06.2024.

3. His first bail application, M.Cr.C. No.25998/2024 has already been dismissed by this Court as withdrawn on 11.07.2024 with liberty to renew the prayer after filing of the charge-sheet.

4. The allegation against the applicant is of murder of one Rajesh Dawar.

5. Counsel for the applicant has submitted that admittedly, it is a case of circumstantial evidence and there is nothing on record to connect the



applicant with the offence. It is further submitted that the charge-sheet has already been filed and the conclusion of trial is likely to take sufficient long time.

6. Counsel for the respondent/State, on the other hand, has opposed the prayer and it is submitted that no case for grant of bail is made out, as there is evidence of last seen together available, as the applicant has been last seen together with the deceased, by the mother of the deceased Smt.Ganga Bai. It is also submitted that prior to the commission of offence, the accused persons had also consumed beer along with the deceased and the beer bottles have also been recovered at the instance of the present applicant.

7. Heard. On due consideration of submissions and on perusal of the documents filed on record, this Court is of the considered opinion that since it is a case of circumstantial evidence and no other connecting material is available on record except the statements of the witnesses of last seen together, which is also not soon before the body was recovered, and has also been recorded on 31.03.2024, whereas the date of incident is said to be 24.03.2024 whereas, the beer bottles seized after a period of three months have also not been sent for fingerprint examination to the FSL,this Court is inclined to allow the present application.

8. Accordingly, without commenting upon the merits of the case, the application filed by the applicant is **allowed**. The applicant is directed to be released on bail upon furnishing a personal bond in the sum of **Rs.50,000/-** (rupees fifty thousand) with one solvent surety of the like amount to the satisfaction of the trial Court for his/her regular appearance before the trial Court during trial with a condition that he / she shall remain present before the court concerned during trial and shall also abide by the



conditions enumerated under Section 437 (3) Criminal Procedure Code, 1973.

**REGARDING DECISION OF INVESTIGATING  
OFFICER, FOR NOT SENDING THE BOTTLES SEIZED  
FOR OBTAINING THE FINGERPRINTS:-**

9. On the last date of hearing, this Court had also asked the counsel for the State to keep the Investigating Officer present through video conferencing, who has also appeared through video conferencing, however, he could not be heard due to some technical glitch. However, counsel for the State has submitted that the beer bottles seized were not sent to the Forensic Science Laboratory for its report on the fingerprints, because the incident had taken place on 24.03.2024, whereas the bottles have been seized only on 17.06.2024, thus, it was already more than three months since the bottles were lying in open, hence the Investigating Officer thought and presumed that the fingerprints might not have remained on the bottles due to weather, as the same were lying in open place..

10. In the considered opinion of this Court, the aforesaid explanation is again totally unacceptable and incomprehensible, as it is not for the Investigating Officer to presume what would be found and what would not be found in the forensic investigation, and it was his duty to send the bottles to see if the fingerprints of the accused and the deceased were still available on the bottles. It only demonstrates the immature and unscientific approach adopted by the investigating officer.

11. In such circumstances, the order passed by this Court in *M.Cr.C. No. 28712/2024* dated *22.08.2024*, assumes importance, in which , the following directions were given to the Director General of Police:-



“15] Thus, in its effort to ensure that this practice of careless and sloppy investigation must stop somewhere, and the investigation is not left to the whims of an investigating officer, it is directed to the **Director General of the Police, M.P., Bhopal**, to ensure that in each district of the State, each and every investigation in serious crimes be supervised by a team comprising of two member, which shall be headed by a senior level police officer, not below the rank of an experienced IPS officer, and other officer of the Police department, not below the rank of Sub-Inspector of Police, who may be chosen by the said IPS officer. The said **Serious Crimes Investigation Supervising Team** shall supervise the investigation, and the Investigating Officer shall also report and apprise the Team about the progress of the investigation for its inputs, to ensure that there are no lapses in the investigation, and the loopholes are plugged at the right time. The said team, together with the investigating officer, shall be held responsible for any lapses in the investigation.”

12. Let a copy of this order be also sent to the Director General of Police for compliance of the order passed in M.Cr.C. No. **28712/2024** dated **22.08.2024**.

13. With the aforesaid directions and observations, M.Cr.C. stands *allowed* and *disposed of*.

Certified copy as per rules.

**(SUBODH ABHYANKAR)**  
**JUDGE**