

THE HIGH COURT OF MADHYA PRADESH

M.Cr.C.No.44534/2021

(*Atamdas Vs. State of M.P.*)

Gwalior, Dated:-25.9.2021

Shri Mahendra Singh Yadav, learned counsel for petitioner.

Shri Kuldeep Singh, learned Public Prosecutor for respondent/State.

Case diary is perused.

Learned counsel for rival parties are heard.

This is first application under section 438 CrPC filed by the petitioner for grant of anticipatory bail.

Petitioner apprehends arrest in connection with offence punishable u/S. 147, 148, 149, 336, 186, 353 and 332 IPC registered as Crime No.83/2018 at Police Station Gohad, District Bhind (M.P.).

Learned counsel for the State opposed the application and prayed for its rejection by contending that on the basis of the allegations and the material available on record, no case for grant of anticipatory bail is made out.

Petitioner apprehends arrest in respect of offence which took place in the year 2018 when it is alleged that petitioner on the date of incident alongwith other co-accused had led an unruling mob of 700-800 persons who were protesting against ratio of the decision of Apex Court in **Dr. Subhash Kashinath Mahajan Vs. State of Maharashtra (2018) 6 SCC 454**. The mob was allegedly under the impression that the decision of the Apex Court was against the interest of the SC/ST community.

It is evident from record that large number of public and private

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properties were destroyed during that agitation and the even tempo of life in the town of Gwalior came to a standstill.

What is most surprising in this case is that petitioner despite being a sitting Councillor behaved in a highly irresponsible manner instigating members of his community to indulge in arson and looting leading to widespread damage to private and public property. The record reveals that petitioner did nothing to prevent members of his community from committing offences. Instead the petitioner instigated them. Prima facie the act of petitioner, to say the least, was unbecoming of an elected representative.

Though none of the offences alleged against petitioner attract more than three years of imprisonment, but are cognizable and non-bailable.

The benefit of ratio laid down by the Apex Court in the case of **Arnesh Kumar Vs. State of Bihar 2014 (8) SCC 273** can very well be extended to the petitioner but looking to the culpable behaviour of the petitioner who has demeaned the dignity attached to the office of Councillor, this Court declines anticipatory bail to the petitioner.

Accordingly, this bail petition u/S. 438 Cr.P.C. stands rejected.

E-copy/Certified copy as per rules/directions.

(Sheel Nagu)
Judge

*Pawar**