

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 The second respondent has been convicted of an offence punishable under Section 302 of the Indian Penal Code 1860 and sentenced to suffer imprisonment for life. Pending the disposal of the appeal against the conviction, the High Court by its order dated 3 February 2016 ordered a suspension of sentence under the provisions of Section 389(1) of the Code of Criminal Procedure 1973¹. Two applications were moved before the Division Bench of the High Court of Madhya Pradesh (IA 6837 of 2019 and IA 5781 of 2019) for cancellation of bail and revocation of the order dated 3 February 2016 granting a suspension of sentence to the second respondent. These applications for cancellation of bail were filed by the petitioner as well as by the State of Madhya Pradesh. The application for cancellation of bail filed by the petitioner was on the basis that after the second respondent was granted a suspension of sentence on 3 February 2016, a First Information Report, being FIR No 143 of 2019, was registered against the second respondent at PS Hata, District Damoh on the allegation that while on bail, the second respondent had committed the murder of the father of the petitioner. In the application for cancellation of bail moved by the State of Madhya Pradesh, it has been submitted that the second respondent has two other convictions on the charge of murder. Moreover, it has been submitted that there is a similarity in that both the victims belong to the same family. The registration of the FIR at the behest of the petitioner was also mentioned in the application for cancellation of bail.
- 2 The application for cancellation of bail moved by the State of Madhya Pradesh contains the following averments in paragraph 8:

1 “CrPC”

- “8. At this stage, it would be relevant to detail the three convictions suffered by the appellant. The same are detailed hereunder:
- (a) It is submitted that in the first crime, the appellant committed the murder of the deceased Rajendra Pathak on 13.10.1998 who was going on his scooter and was confronted by the appellant and co-accused Chandu Thakur who were coming on a motorcycle from the opposite direction. At the relevant point of time the appellant Govind Singh fired through Katta on the deceased Rajendra Pathak which hit the deceased on his chest. After receiving the said shot the deceased ran to save his life and on noticing the same co-accused Chandu Thakur fired a shot which hit the deceased on his back. The deceased Rajendra Pathak succumbed to the said injuries. Based on the said incident, session trial was instituted and appellant was convicted for the murder of Rajendra Pathak and sentenced to life imprisonment by judgment dated 30.09.2008. It is thereafter Cr.A No.2353/2008 was filed by the appellant before this Hon’ble Court. It is also relevant to mention herein that the similarity of the present case with a case relating to deceased Rajendra Pathak is that the deceased in the present case Pappu @Ramakant Pathak and Kailash Pathak were all belonging to the same family.
 - (b) It is submitted that in the second crime, the appellant along with others committed the murder of Munna Vishwakarma. Based on the said incident, Sessions Trial No. 113/2005 was instituted and the appellant was convicted for the murder of Munna vide Judgment dated 27,10.2015. It is thereafter, Criminal Appeal No. 3108/2015 was filed by the appellant before this Hon’ble Court.
 - (c) To put it differently, it can thus be seen that the appellant committed two crimes punishable under Section 302 IPC on the same date i.e. 11.5.2004 viz. the present case in which Ramakant Pathak and Kailash Pathak were killed and Munna Vishwakarma in respect to which Criminal Appeal No. 3108/2015 is pending.
 - (d) It would also be relevant to mention herein that the appellant committed another crime for offences punishable under Section 399 and 402 of the Indian Penal Code and Section 25 (1) (1B)(a) of the Arms Act. In the said case too, the appellant was convicted and thereafter filed a Criminal Appeal No. 1984 /2011, in which case also his sentence was suspended. It is thus clear that the appellant has been a serious threat to the society and that has been continuously committing criminal offences.”

3 There is a reference to the present FIR in paragraph 10, which reads as follows:

“10 It is also relevant to mention herein that after grant of bail in the said criminal appeals, the appellant has again committed murder of one Devendra Chaurasiva on 15.03.2019 and an F.I.R. to that respect has been registered against the appellant on 15.03.2019 itself for offences punishable U/s 294, 323, 324, 307, 147, 148, 149, 506 of I.P.C. Pertinently, since the deceased died after registration of F.I.R., offence U/s 302 has been added in the present crime. Copy of the F.I.R dated 15.03.2019 bearing crime No. 143/2019 is filed herewith as ANNEXURE-R/1.”

4 The High Court, by its order dated 23 July 2019, declined to entertain the applications for cancellation of bail while passing the following order:

“After hearing learned counsel for the parties, we are of the considered opinion that I.A.No.6837/2019 & I.A.No.5781/2019 can be disposed of as per the statement made at bar by Shri Ajay Gupta, Additional Advocate General for the State that the State Government is further investigating the issue on an application filed on behalf of appellant Govind Singh inter alia stating that he has been falsely implicated. We, therefore, direct that the investigation may be completed as far as possible within three months but not later than 90 days. On completion of the investigation, if the appellant is found involved in commission of the crime, he be immediately taken into custody and the procedure as prescribed be followed. It is also observed that neither appellant Govind Singh shall threaten nor influence the witnesses and the complainant side.”

5 Notice was issued by this Court on 18 November 2020 and liberty was granted to serve the Standing Counsel for the State of Madhya Pradesh. On 11 January 2021, two weeks' time was granted to file a counter affidavit. On 12 February 2021, learned counsel appearing on behalf of the petitioner stated that he would place on record an order dated 8 January 2021 passed by the Additional Sessions Judge under Section 319 of the CrPC, by which the second respondent has been arraigned as an accused. This Court noted the submission that though an arrest warrant has been issued against the second respondent, he has been resisting arrest. An affidavit has been filed by the petitioner in the form of a rejoinder.

The State has also filed a counter affidavit.

- 6 The material which has been placed on the record makes startling reading. On 8 January 2021, an order was passed by the 2nd Additional Sessions Judge, Hata, District Damoh in Sessions Trial No 30 of 2019 (Addl No 143 of 2019). The order of the learned Additional Sessions Judge specifically refers to the criminal record of the second respondent in the following terms:

“Details of criminal records of accused Govind Singh are accordingly:-

PS-Damoh Dehat

S.No.	Crime Case No.	Under Sections
1.	150/93	147, 148, 149, 302, 34 of IPC.
2.	173/94	393, 365, 34 of IPC.
3.	169/04	395, 396, 397, of IPC.
4.	170/04	147, 148, 149, 302, 324 of IPC, and under section 3/5 and under section 25/27 Arms Act.
5.	414/06	399, 402 of IPC, and under section 25/27 Arms Act.
6.	68/07	364, 34 of IPC.
7.	390/07	384 of IPC.
8.	S.No. 01/10	Under section 3(2) of the MP Protection Act, 1980.
9.	S.No. 02/19	Under section 3(2) of the MP Protection Act, 1980.
10.	S.No. 08/19	Under section 110 Jaa.fau.
11.	S.No. 160/19	Under section 107, 116 (3)

		Jaa.fau.
12.	203/95	396, 386, 365 of IPC.
13.	241/96	384, 34 of IPC.
14.	44/99	384 of IPC.
15.	168/2000	341, 294, 506B, 34 of IPC.
16.	80/04	307, 34 of IPC.
17.	171/04	394 of IPC.
18.	S.No. 01/13	Under section 6 of the MP Protection Act, 1980.
19.	S.No. 01/19	Under section 3(2) of the MP Protection Act, 1980.
20.	S.No. 07/19	Under section 110 jaa faa.
21.	S.No. 159/19	Under section 107, 116(3) jaa faa.
PS-Patharia, Damoh		
22.	56/92	294, 323, 34 of IPC, under section 3(1-10) SC ST Act.
23.	93/92	436, 34 of IPC, under section 3(1-10) SC ST Act.
24.	31/10	147, 341, 307, 506 of IPC.
25.	157/93	295, 397 of IPC.
26.	169/90	294, 506, 427 of IPC.
PS-Kotwali Damoh		
27.	578/98	307, 302, 34, 120 of IPC and Arms Act.
28.	214/16	147, 452, 294, 506, 34 of IPC.”

7 The order of the Additional Sessions Judge furnishes reasons for taking steps in pursuance of the provisions of Section 319 to arraign the second respondent as an accused. The Additional Sessions Judge notes that though he was taking

action in compliance with the directions issued by this Court for ensuring service on the second respondent, he was being obstructed. The learned Additional Sessions Judge then notes in his order that:

“The action in this case is being taken in compliance with the directions given by Hon. Supreme Court expeditiously. But accused persons are highly influential political persons and have raised false allegations against me and made application for transfer of case before Hon. District Judge which was found false and Hon. District Judge had dismissed the application with cost and being contemptuous. But like accused persons, now Police Superintendent Damoh had connived with his subordinates and made false and fabricated pressure on me. From the above such acts it is clear and I am confident that accused persons with Police Superintendent Damoh had colluded with his subordinates to frame serious charges against me in future or any unpleasant incident can be done with me.”

- 8 The order of the learned Additional Sessions Judge dated 8 February 2021 indicates that he is being pressurized by the Superintendent of Police, Damoh, who, together with his subordinates, is attempting to pressurize the judicial officer. The judicial officer has expressed the apprehension that the accused who are “highly influential political persons” have raised false allegations against him and applied for transfer of the pending case which was dismissed by the District Judge after it was found to be false. The learned Additional Sessions Judge has apprehended that he may be subjected to an “unpleasant incident” in the future.
- 9 The facts of the present case indicate that despite the registration of a First Information Report on 15 March 2019, where the petitioner has alleged that the second respondent was complicit in the murder of his father, no steps have been taken by the investigating authorities to arrest the second respondent. On the contrary, it was the Additional Sessions Judge who was constrained to arraign the second respondent under Section 319 of the CrPC. Even thereafter, the second respondent continues to abscond. It has been submitted before this

Court that the spouse of the second respondent is an MLA and all possible steps are, therefore, being adopted to shield the second respondent from the coercive arm of the law.

- 10 We take serious note of the manner in which the Additional Sessions Judge, Hata who is in charge of the criminal case has been harassed by the law enforcement machinery in Damoh. We have no reason to disbelieve a judicial officer who has made an impassioned plea that he was being pressurized as a result of his orders under Section 319 of the CrPC. The State which had moved the High Court for cancellation of the bail which was granted to the second respondent as an incident of the suspension of sentence on 3 February 2016, has failed to apprehend the second respondent who continues to evade arrest. A warrant of arrest was issued against the second respondent. Mr Saurabh Mishra, Additional Advocate General appearing for the State, states that a proclamation has been issued against the second respondent under Section 82 of the CrPC on 4 March 2021 with an award of Rs 10,000. Yet the second respondent continues to evade arrest. The rule of law must be preserved.
- 11 We accordingly order and direct the Director General of Police of the State of Madhya Pradesh to immediately ensure the arrest of the second respondent and report compliance by filing a personal affidavit in this Court. The DGP shall also enquire into the allegations levelled by the second respondent against the Superintendent of Police Damoh by the Additional Sessions Judge in his order dated 8 February 2021, noted above. Notice shall issue to the Superintendent of Police, Damoh returnable on 26 March 2021.
- 12 We also issue a direction to the effect that adequate security shall be provided to Shri R P Sonkar, 2nd Additional Sessions Judge, Hata, District Damoh under the directions of this Court.

13 List the Special Leave Petition on 26 March 2021 to report compliance.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER