

(2023) 01 MP CK 0091

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 3719 Of 2023

Abhishek Malviya

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 23-01-2023

Acts Referred:

Indian Penal Code, 1860 — Section 363, 366, 376(2)(N)
Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(w), 3(2)(v)
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2023) 01 MP CK 0091

Hon'ble Judges : Anand Pathak, J

Bench : Single Bench

Advocate : Lalji Kushwaha, Vivke Lakhera

Final Decision : Allowed

Judgement

Anand Pathak, J

The applicant has filed this first bail application u/S.439 Cr.P.C for grant of bail, who has been in judicial custody since 27.05.2022 in connection with Crime No.119/2022 registered at Police Station-Sukhi Sevania, District-Bhopal for the offences punishable under Sections 363, 366, 376(2)(N) of IPC and Section 3(1)(w), 3(2)(v) of Scheduled Caste and Scheduled Tribes Act.

It is the submission of learned counsel for the applicant that he is suffering confinement since 27.05.2022 and material prosecution witnesses including the prosecutrix have been examined. They did not support the story of prosecution and declared hostile, therefore, chance of tampering with evidence/witnesses is remote. It is further submitted that it is the case of false implication and dispute erupted because of fact that prosecutrix being scolded by her brother. The applicant does not bear any criminal record. Confinement amounts to pre-trial detention. He undertakes to cooperate in trial and would make himself available as and when required. The applicant would not be a source of embarrassment

and harassment to the complainant party. Under these grounds, he prayed for bail.

Learned Government Advocate for the State opposed the prayer and prayed for its dismissal.

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

Considering the submissions advanced by the learned counsel for the parties and the fact that applicant does not bear any criminal record but without commenting on the merits of the case, the application is allowed. It is hereby directed that the applicant shall be released on bail on his furnishing a personal bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety in the like amount to the satisfaction of trial Court.

This order will remain operative subject to compliance of the following conditions by the applicant :-

1. The applicant will comply with all the terms and conditions of the bond executed by him;
2. The applicant will cooperate in the investigation/trial, as the case may be;
3. The applicant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicant shall not commit an offence similar to the offence of which he is accused;
5. The applicant shall not seek unnecessary adjournments during the trial;
6. The applicant shall not leave India without previous permission of the trial Court/Investigating Officer, as the case may be;
7. The applicant shall not be a source of embarrassment/harassment to the complainant party and shall not move in their vicinity in any manner, otherwise benefit of bail shall be immediately withdrawn.

Application stands allowed and disposed of.

A copy of this order be sent to the trial Court concerned for compliance and information.

Certified copy as per rules.