

(2020) 10 MP CK 0068

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 38340 Of 2020

Ali Khan Pardi @ Virendra Solanki S/O Kiloskar

APPELLANT

Vs

State Of M.P

RESPONDENT

Date of Decision : 08-10-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 164, 473(3), 439
Indian Penal Code, 1860 — Section 363, 366

Citation : (2020) 10 MP CK 0068

Hon'ble Judges : Vivek Rusia, J

Bench : Single Bench

Advocate : Shivendra Pandey, Kirti Patwardhan

Final Decision : Allowed

Judgement

Vivek Rusia, J

1. This is the first application filed under Section 439 of Cr.P.C. by the applicant - Ali Khan Pardi @ Virendra Solanki S/o Kiloskar, who has been arrested by Police on 05.07.2020 in Crime No.375/2020, Police Station Mahakal, District Ujjain concerning offence under Sections 363 and 366 of the IPC.

2. Heard the learned counsel for the parties through video conferencing and perused the case diary.

3. As per the prosecution story, prosecutrix lodged an FIR that she was abducted by the present applicant on 09.05.2020 and kept two days in his house and thereafter left near the petrol pump upon phone received by her father.

4. Learned counsel for the applicant submits that there is a previous enmity between the father of the prosecutrix and the applicant in respect of his marriage. The prosecutrix is cousin sister of the present applicant's wife. Wife of the applicant has delivered a male child on 22.03.2020 and he has already two sons. She was called in the house to help his wife and thereafter he has been

falsely implicated in the case of abduction and apart from this there is no allegation against the applicant. He has no criminal antecedents. The applicant is in jail since 05.07.2020. Challan has been filed and trial may take time to conclude. It is purely a family dispute which has been given a colour of criminal case. The applicant is ready to obey the condition imposed by this Court. Hence, the applicant be released on bail.

5. On the other hand, the learned Panel Lawyer opposes the prayer for grant of bail by submitting that the prosecutrix has not changed her version before the Magistrate while recording her statement under Section 164 of Cr.P.C.

6. I have perused the case diary. The prosecutrix is cousin sister of the applicant's wife, who delivered a male child in the month of March. As per allegation, she was kept in the house where the applicant's wife and three children are residing, hence, prima facie case is made out, therefore, without further commenting on the merits of the case, it would be appropriate to enlarge the applicant on bail.

7. Accordingly, the application for applicant Ali Khan Pardi @ Virendra Solanki S/o Kiloskar is hereby allowed. It is directed that on furnishing a personal bond by the applicant in the sum of Rs.50,000/- (Rupees Fifty Thousand Only), with one solvent surety in the like amount to the satisfaction of concerned trial Court, he shall be released on bail, subject to the condition that he shall make himself available to the Police, as and when required during the investigation and will also remain present before the trial Court as and when directed in that behalf. It is also directed that the applicant shall abide by all the conditions enumerated under Section 437 (3) of the Cr.P.C.

8. Before releasing the applicant from the custody the jail authorities are directed to medically examine him in order to rule out the possibility of COVID -19 infections and shall comply with the direction given by the Hon'ble Apex Court in Writ Petition No. 1/2020.

C.c. as per rules.