

(2022) 03 MP CK 0024

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 12193 Of 2022

Anand Sharma

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 08-03-2022

Acts Referred:

Indian Penal Code, 1860 — Section 4, 363, 368, 370 (1), 376(D), 376(2) (N), 506
Protection Of Children From Sexual Offences Act, 2012 — Section 3, 5(L), 6
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2022) 03 MP CK 0024

Hon'ble Judges : Deepak Kumar Agarwal, J

Bench : Single Bench

Advocate : Pradeep Katare, Lokendra Shrivastava

Final Decision : Allowed

Judgement

Deepak Kumar Agarwal, J

This is the first bail application u/S.439 Cr.P.C filed by the applicant for grant of bail.

Applicant has been arrested on 15.12.2021 by Police Station, Kumbhraj, District Guna (MP), in connection with Crime No.164/2021 for the offence punishable under Sections 363, 376(D), 376(2) (N), 368, 370 (1), 506 of IPC and section 4 read with section 3, 5(L)/6 of POCSO Act.

As per prosecution story, on 14.6.2021 father of the prosecutrix Shivcharan along with his wife Shimla Bai gave information at Kumbhraj, District Guna that their daughter prosecutrix aged about 15 years 5 months had gone to purchase vegetable from market and did not return. They have searched her here and there but could not trace her out, somebody persuaded her to go with him. On his information Guminsan No. 23/21 was recorded and offence under section 363 IPC was registered against unknown persons. During investigation prosecutrix was rescued on 14.07.2021 and handed over to her mother. She was sent for

medical examination and her statements were recorded. In her statement she has stated that she is aged about 16 years and studying in tenth standard. On 14th May, 2021 without informing her family members she went to Gwalior. Her mother and father wanted to perform her marriage, but she wanted to study. At Gwalior bus stand one uncle met her. He enquired about her, she narrated the story to him. He took her in his house and kept her in good condition and provided food to eat. In his house his wife and children were there. She was residing in his house peacefully. His name is Nanga Chacha. She met him for the first time. He kept her in his house as a daughter. She remained there about 20 days. During this period no ill-treatment took place with her. Thereafter another statement was recorded on 2.12.2021 after about five months in which it is stated that on the date of incident she was returning after taking vegetable, Anand (present applicant) of her locality met her and told her that he will drop her to her house. She sat on his motorcycle, he took her to Byawara Road in a Dhaba and took a room there. She resided with him one night there and during the period he committed sexual intercourse with her. On the next day Anand called a Omni Van. On 15.6.2021 he took her to Gwalior and the Van was driven by Driver. In Gwalior Neelam Gurjar met her. Anand gave him Rs.10,000/- and ran away. She resided with Neelam in a room at Gwalior, thereafter he took her to Dabra and he committed sexual intercourse with her. Neelam talked with Manish regarding her for Rs.30,000/- She resided there for one month, during which Manish committed sexual intercourse with her.

After investigation charge-sheet has been filed.

Learned counsel for the applicant submits that applicant is innocent and he has has been falsely implicated. He has not committed any offence in any manner. During her statement before the Court, the prosecutrix has not alleged anything against the present applicant or any one. He is in custody since 15.12.2021. He is ready to abide by all the terms and conditions which may be imposed by this Court. Under these circumstances, he prays for grant of bail to the applicant.

Learned counsel for the State vehemently opposed the application and prays for its rejection.

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

Looking to the facts and circumstances of the case, without commenting upon the merits of the case, this Court is of the opinion that the application should be allowed and by allowing the application it is ordered that if the applicant furnishes bail bond of Rs.25,000/- (Rupees Twenty Five thousand only) with one solvent surety in the like amount to the satisfaction of the trial Court, he should be released on bail. He will present during trial before the trial Court on each and every date.

Application stands allowed and disposed of.

Copy of this order be sent to the trial Court concerned for compliance.

Certified copy as per rules.