

(2024) 04 MP CK 0197

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 17058 Of 2024

Ballu Yadav

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 29-04-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 164, 439
Indian Penal Code, 1860 — Section 342, 363, 366, 366A, 376, 376D, 506
Protection Of Children From Sexual Offences Act, 2012 — Section 3, 4, 5, 6

Citation : (2024) 04 MP CK 0197

Hon'ble Judges : Sunita Yadav, J

Bench : Single Bench

Advocate : Akhand Pratap Singh, PPS Bazeeta

Final Decision : Allowed

Judgement

Sunita Yadav, J

1. This is second repeat application filed by the applicant under Section 439 of the Cr.P.C. for grant of bail relating to Crime No.262 of 2023 registered at Police Station Umri, District Bhind (M.P.) for the offence punishable under Sections 363, 366, 366-A, 376, 376-D, 342 and 506 of IPC and Section 3/4 & 5/6 of POCSO Act, 2012. His first bail application (M.Cr.C. No.57576 of 2023) was dismissed as withdrawn vide order dated 03.01.2024 with liberty to revive the prayer after recording of statement of the prosecutrix or after expiry of three months whichever is earlier.

2. Learned counsel for the applicant argued that the applicant is innocent and has been falsely implicated which is evident from the fact that the prosecutrix in her statement recorded at different fora changed and improvised her version. It is further submitted that the FIR was registered on 30.09.2023 when prosecutrix got missing. She was recovered on 03.10.2023 and in her first statement after recovery on 03.10.2023 she made no allegation about the sexual assault by the accused/applicant, however, in her statement recorded under Section 164 Cr.P.C.

on 04.10.2023 she made allegation against all the accused persons about the sexual assault. However, in her court statement, she entirely changed her story and stated that co-accused Uttam was not involved in the crime. It is further submitted that the prosecutrix in her court statement at para 3 stated that two different persons i.e. Pawan and Bhole dragged her forcibly in the car, however, Pawan and Bhole are one and the same person. Under these circumstances, entire prosecution story becomes doubtful. Applicant is in custody since 06.10.2023 and since charge-sheet has already been filed, therefore, his custodial interrogation is not required any more. Even the statement of the prosecutrix has been recorded, therefore, question of influencing the prosecutrix does not arise. Further submission is that the applicant is the permanent resident of District Bhind (M.P.) and there is no possibility of his absconsion or tampering with the prosecution evidence; hence, he prays for grant of bail to the applicant.

3. Per contra, learned Public Prosecutor for the respondent/State, vehemently opposed the present bail application and prayed for its dismissal.

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

5. Considering the facts and circumstances of the case, but without expressing any opinion on merits of the case, this application is allowed and it is directed that the applicant be released on bail on furnishing a personal bond in the sum of Rs.1,00,000/- (Rupees One Lac Only) with one solvent surety in the like amount to the satisfaction of the trial Court.

6. 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 him from disclosing such facts to the Court or to the Police Officer, as the case may be;

4) The applicant will not commit an offence similar to the offence for which he is accused;

5) The applicant will not seek unnecessary adjournments during the trial; and

6) The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

7. Learned State counsel is directed to send an e-copy of this order to the Station House Officer of the concerned Police Station for information and necessary action.

E- copy of this order be sent to the trial Court concerned for compliance, if

possible, by the office of this Court.

Certified copy as per rules.