

(2023) 03 MP CK 0047

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 11013 Of 2023

Bharat @ Bhaarat

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 13-03-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 164, 439
Indian Penal Code, 1860 — Section 363, 366, 376(2)(n)

Citation : (2023) 03 MP CK 0047

Hon'ble Judges : Vijay Kumar Shukla, J

Bench : Single Bench

Advocate : Manoj Saxena, Harshlata Soni

Final Decision : Allowed

Judgement

Vijay Kumar Shukla, J

This is first application under Section 439 of the Cr.P.C. filed on behalf of the applicant in connection with Crime No. 495/2022 registered at Police Station – Maksi, Dist. Shajapur (M.P.) under Sections 363, 366, 376(2)(n) of IPC.

It is alleged that the applicant has abducted and committed rape with the prosecutrix. Counsel for the applicant submits that a missing report was lodged by mother of the prosecutrix and she was recovered on 22.12.2022. Counsel submits that in the statement under Section 164 Cr.P.C. the prosecutrix has stated that she had herself willingly gone with the applicant to different places. She was a consenting party.

Counsel for the State opposed the prayer for grant of bail on the ground that the age of the prosecutrix was less than 18 years on the date of the incident.

After hearing learned counsel for the parties and taking into consideration the statement of the prosecutrix under Section 164 Cr.P.C. and the fact that the age of the prosecutrix is more than 17 years 11 months nearing 18 years, the charge-

sheet has been filed, the investigation is completed and no further custodial interrogation is required, I am of the view that the applicant is entitled for grant of bail. Therefore, without expressing any view on the merits of the case, the application is allowed.

It is directed that applicant shall be released from custody upon furnishing a personal bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one surety of the like amount to the satisfaction of the Ld. Court below.

The prison authorities are also requested to ensure compliance with the order passed by the Supreme Court IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS in SUO MOTU "W.P. (C) No.1/2020" and ensure that the applicant is examined by the jail doctor before his release. If the applicant shows symptoms of COVID-19, the doctor shall forthwith direct him to be produced before the appropriate hospital designated for the detection and treatment of COVID-19 patients. If the doctor is of the opinion that the applicant is not affected with the virus, the jail authorities shall ensure his transportation from the jail till his place of residence.

It is further made clear that if it is found that the applicant is involved in any other case during the trial, this bail order shall stand cancelled automatically without reference to the Court and the Police will be at liberty to arrest the applicant.

A typed copy of this order is being forwarded to the Office of the Advocate General, on their email address, for intimation to the Police Station concerned. The office is requested to forward a copy of this order to the Ld. Court below.