

(2022) 05 MP CK 0009

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.3529 Of 2022

Chotu @ Shivraj

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 04-05-2022

Acts Referred:

Indian Penal Code, 1860 — Section 323, 363, 376, 376(2)(n), 506(2)
Protection Of Children From Sexual Offences Act, 2012 — Section 3, 4, 5, 6
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2022) 05 MP CK 0009

Hon'ble Judges : Rajeev Kumar Shrivastava, J

Bench : Single Bench

Advocate : Atul Gupta, Purushottam Tanwar

Final Decision : Disposed Of

Judgement

Rajeev Kumar Shrivastava, J

The applicant has filed this first application u/S.439 Cr.P.C for grant of bail. Applicant has been arrested on 31-05-2021 by Police Station Kotwali, Vidisha (M.P.) in connection with Crime No.227 of 2021 registered for offence under Sections 376, 363, 506(2), 323, 376(2)(n) of IPC and under Sections 5/6 and 3/4 of the POCSO Act.

It is submitted by learned counsel for the applicant Chotu alias Shiraj that the applicant is innocent and he has not committed any offence alleged against him. Applicant is in custody since 31-05-2021 The evidence of prosecutrix and her father has been recorded. The prosecution story is concocted as prosecutrix in the present case in her deposition stated that FIR was lodged by her father and her uncle, therefore, she made signature on the FIR itself. The applicant has been falsely implicated as there is an existence of previous enmity. Conclusion of trial will take some time. It is further submitted that prosecution version is not supported by medical evidence. Applicant is ready and willing to abide by any condition which may be imposed by this Court. Hence, prayed for grant of bail.

Learned State counsel has vehemently opposed the prayer and submitted that the prosecutrix is minor. In her statement, the prosecutrix deposed that the applicant along with other co-accused has committed the offence aforesaid. It is further submitted that the applicant has a criminal history and as many as three criminal cases have been registered against him. Considering the nature of allegation as well as the nature of offence committed with a minor girl, the applicant is not entitled for grant of bail.

Heard learned counsel for the parties and considered the arguments advanced by them and perused the case diary.

Considering the arguments advanced by learned counsel for the parties along with facts and circumstances of the case and the fact that the applicant is in custody since 31-05-2021 and trial will take its own time, without commenting upon the merits of the case, the application is allowed and it is hereby directed that the applicant shall be released on bail on his furnishing personal bond of Rs.1,00,000/- (Rupees one lac only) with one solvent surety in the like amount to the satisfaction of the Court concerned for his regular appearance before the trial Court concerned on the dates fixed by it.

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 any kind of offence. In case of commission of any kind of offence, this bail order shall automatically stand cancelled and whole amount of bail bonds will be seized;
- 5 . The applicant will not move in the vicinity of complainant party and applicant will not seek unnecessary adjournments during the trial;
6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

Application stands disposed of in above terms.

Let a copy of this order be sent to the trial Court concerned for information. CC as per rules.