
(2019) 12 MP CK 0017

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 49670 Of 2019

Deepak Ahirwar

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 03-12-2019

Acts Referred:

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

Citation : (2019) 12 MP CK 0017

Hon'ble Judges : Sheel Nagu, J

Bench : Single Bench

Advocate : Bhagwati Prasad Sharma, R.S. Bansal

Final Decision : Disposed Of

Judgement

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

The applicant has been arrested on 18.11.2019 by Police Station Gwalior District-Gwalior (M.P.) in connection with Crime No. 588/2019 registered in relation to the offence punishable u/S. 363,366 (A) of IPC.

Learned Public Prosecutor for the State opposed the application and prayed for its rejection by contending that on the basis of the allegations and the material available on record, no case for grant of bail is made out.

The applicant is in custody from 18.11.2019 for the offence of kidnapping and procuring a minor girl who was 17 years and four months. The prosecutrix in her statement under Section 164 of Cr.P.C. reveal that she has gone with the applicant on her own volition. Though, the age prosecutrix is in between 17-18 years but considering the fact that no overt act has been alleged against the applicant and the possibility of the prosecutrix being 18 years cannot be denied.

Considering the above facts and that early conclusion of the trial is bleak possibility and prolonged pre-trial detention is anathema to the concept of liberty

and the material placed on record does not disclose possibility of the applicant fleeing from justice, this Court is inclined to extend the benefit of bail to the applicant.

Accordingly, 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. 50,000/- (Rs. Fifty Thousand Only) with two solvent sureties, each of Rs. 25,000/- to the satisfaction of the concerned trial Court.

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 shall not commit an offence similar to the offence of 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. The applicant shall mark his appearance before the concerned trial Court once in a fortnight till conclusion of trial.
8. The applicant shall plant 25 saplings of indigenous fruit bearing or shady trees on the side of the road/street of the place of residence of applicant or at any other place in the district which is earmarked by the Collector/Revenue Authority for planting trees and shall take care of the trees for the next one year by watering the plants and by installing tree guards at his own expenses. In case the applicant is unable to afford incurring of such expenses, then he would obtain saplings/tree guard from the forest authorities (the concerned Forest Range Officer of the area) free of cost or at concessional/nominal rates available under any beneficial scheme of the Government. The applicant shall file an affidavit disclosing compliance of this condition within 30 days in the Registry, failing which this Court may consider cancellation of bail.
9. On complying with condition No.8 aforesaid, the applicant is directed to inform the location of plantation made to the Forest Range Officer of the area concerned who will pass on this information to the DFO concerned.

For effective implementation of this order in the interest of betterment of ecology

of the area concerned, the District Magistrate of district within which the applicant resides is directed to assist the applicant/accused to comply with condition No.8 by extending all possible financial and material assistance to the applicant admissible under any of the beneficial scheme for afforestation of the State.

The DFO of the concerned district is directed to file verification report before the trial court concerned after carrying out inspection personally or through any other officer of the Forest Department duly authorized in that behalf, disclosing as to whether applicant has complied with condition No.8 or not, and if yes to what extent?

The learned trial Judge on receiving report of non compliance of condition No.8 shall forthwith communicate the same to Registry of this Court.

The Registry on receiving any such report from the trial Court disclosing default shall put up the matter before appropriate bench in shape of PUD.

A copy of this order be sent to the Court concerned for compliance.

Let a typed copy of this order be also supplied to the counsel for the State for compliance of the aforesaid directives.

A copy of this order be furnished by the Registry of this Court to the concerned District Magistrate and the DFO having territorial jurisdiction over the place of residence of the applicant for execution of the order in the interest of the ecology.

For the time being this case stands disposed of.

C.c. as per rules.