

(2022) 12 MP CK 0048

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.57930 Of 2022

Dhooram @ Brajesh

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 08-12-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 305, 354, 354A, 506
Protection Of Children From Sexual Offences Act, 2012 — Section 7, 8
Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1) W I, 3(2) VA

Citation : (2022) 12 MP CK 0048

Hon'ble Judges : Anand Pathak, J

Bench : Single Bench

Advocate : R.S. Yadav, A.K. Nirankari

Final Decision : Allowed

Judgement

Anand Pathak, J

The applicant has filed this Ninth bail application u/S.439 Cr.P.C for grant of bail.

Applicant has been arrested on 14/07/2020, by Police Station-Nayagaon District Bhind (M.P.), in connection with Crime No.70/2020, for the offence punishable under Sections 354, 354-A, 506 and added Section 305 of the IPC and Section 7/8 of the POCSO Act and Section 3(1) W I, 3(2) VA SC/ST Act.

It is the submission of learned counsel for the applicant that applicant is a boy aged about 20 years and suffering confinement since 14/07/2020 and suffered almost two and half years, as pretrial detention and all material prosecution witnesses have been examined including the doctor, therefore, chance of tampering with the evidence/witnesses is remote. Applicant except this case does not bear any criminal record. Although, dying declaration haunts the applicant but at the same time looking to the period of custody, he prayed for bail.

Learned counsel for the State opposed the prayer and submits that dying declaration is against the applicant because deceased categorically referred the conduct of applicant which caused irritation to her, therefore, she committed suicide.

Heard learned counsel for the parties at length and perused the documents appended.

Considering the above submissions advanced by the learned counsel for the parties and especially the fact that material prosecution witnesses have been examined and applicant has suffered around two and half years of incarceration and applicant does not bear any criminal record but without commenting on the merits of the case, the application is allowed. It is hereby directed that the applicant shall be released on bail on his furnishing personal bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety in the like amount to the satisfaction of 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 them 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;
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 not be a source of embarrassment and harassment to the complainant party in any manner.
8. The applicant shall mark his presence once in every month before police station concerned between 10.30 am to 2.30 pm, till conclusion of trial.

Application stands allowed and disposed of.

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

Certified copy as per rules.