
(2019) 11 MP CK 0051

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 45208 Of 2019

Ghanshyam S/O Arajana

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 05-11-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 164, 437(3), 439
Indian Penal Code, 1860 — Section 363, 366, 376(2)(n)
Protection Of Children From Sexual Offence Act, 2012 — Section 3, 4, 5L, 6

Citation : (2019) 11 MP CK 0051

Hon'ble Judges : S.K. Awasthi, J

Bench : Single Bench

Advocate : Nitin Vyas, Gaurav Kumar Verma

Final Decision : Allowed

Judgement

They are heard. Perused case diary.

This first application under Section 439 of Criminal Procedure Code, 1973 has been filed by applicant, who is implicated in connection with Crime No.101/2019 registered at Police Station Bori, District Alirajpur (MP) for offence punishable under Sections 363, 366 and 376 (2) (n) of the Indian Penal Code, 1860 and also under Section 3 read with Section 4 and Section 5-L read with Section 6 of the Protection of Children from Sexual Offence Act, 2012.

The applicant is in custody since 31.08.2019.

As per prosecution case, on the basis of the allegations made by the prosecutrix, alleged offence under Sections 363, 366 and 376 (2) (n) of the Indian Penal Code, 1860 and also under Section 3 read with Section 4 and Section 5-L read with Section 6 of the Protection of Children from Sexual Offence Act, 2012 has been registered against the present applicant.

Learned counsel for the applicant has submitted that the applicant is a young boy aged about 22 years and he has not committed any offence. Although the

prosecutrix is a minor girl aged about 16 years, however, according to her statement recorded under Section 164 of the Code of Criminal Procedure, 1973, she used to talk with the applicant on mobile phone and she herself went to the house of the applicant and remained in her house for a period of six months. In the aforesaid statement, she has not made any allegation against the applicant regarding kidnapping or commission of rape. Under these circumstances, no alleged offence is made out against the applicant. The applicant is in custody since 31.08.2019. The investigation is over and charge sheet has already been filed before the trial Court. The conclusion of the trial will take sufficiently long time. Under these circumstances, learned Senior Counsel for the applicant prays for grant of bail to the applicant.

Learned Public Prosecutor for the non-applicant / State of Madhya Pradesh opposes the bail application by contending that no sufficient ground is made out for releasing the applicant on bail; hence he prayed for rejection of the application.

Considering the facts and circumstances of the case and the arguments advanced by learned counsel for the parties, but without commenting on the merits of the case, the application filed by the applicant is allowed. The applicant is directed to be released on bail upon his / her furnishing a personal bond in the sum of Rs.50,000/- (Rupees fifty thousand only) with one solvent surety of the like amount to the satisfaction of trial Court, for his / her regular appearance before the trial Court during trial with a condition that he / she shall remain present before the Court concerned during trial and shall also abide by the conditions enumerated under Section 437 (3) of Criminal Procedure Code, 1973.

This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Certified copy, as per rules.