

(2020) 11 MP CK 0032
In the Madhya Pradesh High Court
Case No : Criminal Appeal No. 5030 Of 2019

Gouri @ Gourishanker

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 05-11-2020

Acts Referred:

Scheduled Castes And Tribes (Prevention Of Atrocities) Act, 1989 — Section 3(2)(5), 14A
Code Of Criminal Procedure, 1973 — Section 437(3), 439
Indian Penal Code, 1860 — Section 34, 363, 366Ka

Citation : (2020) 11 MP CK 0032

Hon'ble Judges : J. P. Gupta, J

Bench : Single Bench

Advocate : Kamal Singh Rajput, Pradeep Gupta

Final Decision : Allowed

Judgement

J. P. Gupta, J

This is an appeal filed under section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the impugned order dated 11/09/2020 passed by the Special Judge, SC/ST (Prevention of Atrocities) Act, Khandwa in Special Case No.UR/2020 whereby the court below has dismissed the application filed by the appellant under section 439 of the Cr.P.C.

The appellant is in custody since 21/08/2020 for the offence under section 363, 366-Ka, of IPC and section 3(2)(5) of the SC/ST (Prevention of Atrocities) Act in Crime No.207/2020 registered at Police Station Jawar, District Khandwa.

The allegation against the appellant/accused is that he kidnapped the prosecutrix with a view to subjected her to illicit intercourse and the prosecutrix was minor and belong to SC/ST community.

Learned counsel for the applicant/accused submitted that applicant is innocent person and he is in custody since 21/08/2020. The charge sheet has been filed

and trial will take time to conclude. It is further submitted that the prosecutrix herself went with the applicant with her own will. She is matured girl. In the aforesaid circumstance, the applicant's further custody is not warranted. Hence the applicant be released on bail.

Learned PL for the respondent/State has opposed the bail and prayed for rejection of the same.

Considering all facts and circumstances of the case, in view of this court, the applicant is entitled to get benefit of bail. Hence without commenting anything on the merits of the case, impugned order is set aside and this appeal is allowed. It is ordered that the appellant/accused namely Gouri @ Gourishanker be released on bail on his furnishing a personal bond in the sum of Rs.25,000/-(Rs. Twenty Five Thousand only) with one solvent surety in the like amount to the satisfaction of the trial court for securing his presence before the said Court on all dates of hearing fixed in this regard during trial and for complying with the conditions enumerated in sub-section (3) of Section 437 of Cr.P.C

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