

(2021) 06 MP CK 0052

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.3344 Of 2021

Govind

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 09-06-2021

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 14(A)(2)
Indian Penal Code, 1860 — Section 363, 366, 376, 376(2)(N)
Protection Of Children From Sexual Offences Act, 2012 — Section 5(I), 6

Citation : (2021) 06 MP CK 0052

Hon'ble Judges : Shailendra Shukla, J

Bench : Single Bench

Advocate : Mukesh Sinjonia,, Sameer Verma, Tarun Kushwaha

Final Decision : Disposed Of

Judgement

Shailendra Shukla, J

Submissions were made on the appeal filed under Section 14(A)(2) of SC/ST Act (Prevention of Atrocities) Act, for grant of bail. The appellant is in

custody in connection with crime No.369/2019, registered at police station Malharganj, District Indore, for the offence punishable under Sections of

363, 366, 376, 376(2)(N) of IPC, 1860 and Section 3(2)(v) of SC/ST (Prevention of Atrocities) Act, 1989 and Section 5(I)/6 of Protection of Children

From Sexual Offences Act, 2012.

As per prosecution story, the appellant had kidnapped and raped the minor prosecutrix who belongs to SC/ST Community.

Prosecutrix has been served and Shri Tarun Kushwaha appeared on her behalf and has stated that the prosecutrix is present in his chamber and has

preferred no objection against the application, submitting that both of them intend to marry each other.

Learned counsel for the applicant has pointed out that prosecution has wrongly depicted date of birth of the prosecutrix as 10/05/2002, whereas the

mark sheet of the prosecutrix which is in possession of the applicant shows date of birth as 16/05/2000 and this aspect has been discussed in lower

Court's order.

Learned Panel Lawyer was also heard, who submits that in view of 164 Cr.P.C statement the bail application ought not to be allowed, because in the

aforesaid statements, allegations have been levelled by the prosecutrix against the appellant.

Considered.

The documents pertaining to date of birth filed by the prosecution the date of the incident hence shows that the prosecutrix was minor on the offence

committed against her would amount to rape even if her consent is involved. In view of the aforesaid regular bail cannot be granted.

At this stage, learned counsel for the appellant has submitted that the trials have been stalled because of Covid 19 pandemic situation and hence at

least temporary bail be granted.

In view of the aforesaid, the prayer for temporary bail deserves to be allowed. Consequently, without expressing any opinion on merits of the case, the

appellant is granted temporary bail for a period of sixty days from the date of his release and it is directed that upon appellant's furnishing a personal

bond to the tune of Rs.50,000/- (Rupees fifty thousand only) with one local solvent surety in the like amount to the satisfaction of the trial court, the

appellant shall be released on bail temporarily for a period of sixty days only from the date of his release.

The appellant is directed to surrender himself on the expiry of the 60th day before the trial Court. In case appellant fails to surrender himself before

the concerned trial Court after the expiry of the aforesaid period of sixty days, then respondent shall be at liberty to arrest him in accordance with law.

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

With the aforesaid, the appeal stands disposed of.

Certified copy, as per rules.