

(2024) 04 MP CK 0017

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 12626 Of 2024

Kamal Kishore Sahu

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 02-04-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 161, 437(3), 439
Indian Penal Code, 1860 — Section 376, 376(2)(n), 452, 506

Citation : (2024) 04 MP CK 0017

Hon'ble Judges : Maninder S. Bhatti, J

Bench : Single Bench

Advocate : Sourabh Bhooshan Shrivastava, Pushpraj Singh Gaharwar

Final Decision : Allowed

Judgement

Maninder S. Bhatti, J

1. This is first bail application filed by the applicant under Section 439 of the Code of Criminal Procedure for grant of regular bail relating to FIR/Crime No. 71/2024 dated 03.03.2024 registered at Police Station Bichhiya, District Mandla for the offence punishable under Section 376(2)(n), 376, 452, 506 of Indian Penal Code.

2. Counsel for the applicant contends that the applicant is aged about 19 years and the prosecutrix herself is major. Counsel further submits that as per the statement of prosecutrix recorded under Section 161 Cr.P.C it is palpable that the applicant and the prosecutrix were in relationship. However, later on the prosecutrix for the reasons best known to her, ventured upon to lodge First Information Report against the applicant. The Counsel contends that applicant has been falsely implicated and has not committed any offence.

3. The counsel for the State has opposed the application and submitted that the statement of prosecutrix recorded under Section 161 Cr.P.C makes it abundantly clear that with an open eye the applicant has committed an offence and even

later on when the prosecutrix got engaged elsewhere she was threatened with dire consequences by the present applicant. Hence, the application deserves to be dismissed.

4. Heard the submissions advanced on behalf of the parties and perused the case diary.

5. Perusal of the case diary reflects that the prosecutrix in her statement has stated that between 3.1.2.2024 to 12.2.2024 she had physical relations with the applicant for more than one occasion. On 14.2.2024 the prosecutrix entered into engagement and then the present applicant threatened and resultantly the First Information Report was lodged.

6. Thus, taking into consideration the totality of the circumstances and the fact that the applicant as well as prosecutrix both are aged about 19 years, period of custody of the applicant and the fact that trial would take considerable time to conclude, this Court finds it to be a fit case to release the applicant on bail. Therefore, without commenting anything on the merit of the case, the application is allowed.

7. It is directed that applicant Kamal Kishore Sahu shall be released on bail on furnishing a personal bond in a sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one surety in the like amount to the satisfaction of the trial Court concerned for his appearance before the said Court on all such dates as may be fixed by that Court in this regard during the pendency of trial.

8. It is further directed that the applicant shall comply with the provisions of Section 437(3) of the Cr.P.C.

9. The applicant shall enter appearance before the Station House Officer of the concerned Police Station first week of every month, and the S.H.O concerned shall monitor the conduct of the applicant and if any unusual overt act on the part of the applicant is found, the Station House Officer shall immediately intimate the same to the Trial Court and Trial Court shall be at liberty to forfeit the bail bond of the applicant in the event of violation of above conditions.