
(2021) 05 MP CK 0169

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.25504 Of 2021

Kamal Singh @ Kamlesh Bhavedi

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 31-05-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 437(3), 439

Indian Penal Code, 1860 — Section 34, 212, 363, 366, 366A, 370, 376(3), 376(2)N

Protection Of Children From Sexual Offences Act, 2012 — Section 5L, 6

Citation : (2021) 05 MP CK 0169

Hon'ble Judges : Rajendra Kumar Srivastava, J

Bench : Single Bench

Advocate : Durgesh Singrore, Anand Kumar Shukla

Final Decision : Allowed

Judgement

Rajendra Kumar Srivastava, J

This is first bail application filed on behalf of the applicant under Section 439 of the Code of Criminal Procedure. The applicant is in custody since

20/3/2021 in connection with Crime No.83/2021 registered at Police Station Mohgawan, District Mandla (M.P.) for the offences punishable under

Sections 363, 366, 366-A, 376(3), 376(2)N, 370, 34, 212 of IPC and Sections 5 L/6 of the POCSO Act.

As per the prosecution story, on 28/2/2021 the prosecutrix aged 16 years and 5 months was missing from her house. She was searched, but could not

be found. An FIR was lodged by the father of the prosecutrix in this regard at Police Station Mohgawan. On 19/2/2021 prosecutrix appeared before

the In-charge, Police Station Mohgawan. Prosecutrix stated that present applicant/accused kidnapped her and committed intercourse with her.

Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in this case. He also submits that at the time of incident the prosecutrix was above 18 years and the age of present applicant was 28 years. Prosecutrix and the applicant were both in love with each other, but their parents were not ready to accept their relationship, therefore, prosecutrix voluntarily came to the applicant-accused at Nagpur. They were residing as husband and wife. The prosecutrix was recovered by the Police, thereafter the prosecutrix was pressurized to lodge a false report against the applicant. The present applicant has no criminal antecedents. He is in custody 20/3/2021. Charge-sheet has been filed. The trial will take long time to conclude. There is no possibility of applicant's absconding or tampering with prosecution evidence. Apart from this, prosecutrix has no objection if the applicant is granted bail. On these grounds, he prays for grant of bail to the applicant.

Â Per-contra, learned Panel Lawyer for the respondent/State opposes the bail application.

Learned counsel for the complainant submits that the applicant and the prosecutrix were in love with each other. They are ready to solemnize marriage, therefore, complainant has no objection if the applicant is granted bail.

Considering the contentions of counsel for both the parties and the fact that age of the prosecutrix is disputed and prosecutrix voluntarily came to the applicant at Nagpur, they were residing together at Nagpur, therefore, it appears that it is a matter of love-affair. Applicant is in custody since 20/3/2021. Charge-sheet has been filed and it is the time of Covid-19 pandemic and conclusion of the trial is likely to take sufficiently long time.

Apart from this, complainant has no objection if applicant is granted bail.

Therefore, I am of the considered view that it would be appropriate to release the applicant on bail. Therefore, without commenting on the merits of the case, application of the present applicant namely, Kamal Singh @ Kamlesh Bhavedi under Section 439 of the Cr.P.C. seems to be acceptable.

Consequently, it is hereby allowed.

It is directed that applicant be released on bail on his furnishing a bail bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one surety of the same amount to the satisfaction of the trial Court for his appearance before them on the dates given by the concerned Court. It is further directed

that the applicant shall comply with the provisions of Section 437(3) of the Cr.P.C.
Certified copy as per rules.