

**(2012) 09 MP CK 0057**  
**In the Madhya Pradesh High Court**  
**Case No : M.Cr.C. No. 6536/12**

Kanhiyalal

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

**Date of Decision :** 04-09-2012

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 438  
Penal Code, 1860 (IPC) — Section 366, 376, 506

**Citation :** (2012) 09 MP CK 0057

**Hon'ble Judges :** S.R. Waghmare, J

**Bench :** Single Bench

**Advocate :** N.J. Dave, for the Appellant; R.S. Parmar, Learned Counsel for the State, for the Respondent

## Judgement

Mrs. S.R. Waghmare, Judge

1. By this application filed u/s 438 of the Cr.P.C. the applicant Kanhiyalal has moved the application for grant of anticipatory bail being implicated in Crime No. 51/12 registered by police station Gandhisagar, Distt. Mandsaur for offence under Sections 366, 376, 506 of the IPC. Counsel for the applicant has vehemently urged the fact that the applicant is an agriculturist and an honest citizen of Bhanpura Distt. Mandsaur. The prosecutrix has now resiled from her earlier statement due to the pressure from her parents, in fact she had lived with the present applicant for a period of 3 months, despite which on return to her parents, she has filed a false complaint against the present applicant. Counsel submitted that the prosecutrix never protested despite going to several places with him and in this light, he was entitled to grant of anticipatory bail. Counsel prayed for grant of anticipatory bail.

2. Counsel for the respondent State, on the other hand, has opposed the submission of the Counsel for the applicant and has stated that prima facie the case was made out for the said offences as the prosecutrix has recently filed her statement implicating the accused/applicant. Counsel prayed for dismissal of the

application.

3. On considering the above submissions and looking to the nature of the allegations, I find that it is not a fit case for grant of anticipatory bail. However, in the interest of justice, the applicant is better advised to surrender himself before the competent Court. At this juncture, Counsel for the applicant has expressed apprehension that the applicant is likely to be arrested immediately.

4. In view of the above, the application is partly allowed to the extent that the applicant shall surrender himself within a period of on or before 12 th September, 2012 before the Competent Court and he shall file application for regular bail from the Competent Court within said period, the application shall be considered forthwith, in accordance with law. I would like to make it abundantly clear that the application for regular bail shall be considered on its own merit by the trial Court. It is also directed that till then the applicant shall not be apprehended or arrested. In case of failure to do so within the said period and the applicant shall be arrested immediately in accordance with the provisions of law without reference to this Court.

5. With these directions, the application is disposed of. CC as per rules.