
(2019) 11 MP CK 0175

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 47648 Of 2019

Lalitabai W/O Kundan Bhil

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 20-11-2019

Acts Referred:

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

Indian Penal Code, 1860 — Section 344, 363, 366A, 368, 370, 370A, 376, 376(2)(N)

Protection Of Children From Sexual Offence Act, 2012 — Section 5(L), 6

Citation : (2019) 11 MP CK 0175

Hon'ble Judges : S.K. Awasthi, J

Bench : Single Bench

Advocate : Jivan Singh Gurjar, Yogesh Kumar Gupta

Final Decision : Allowed

Judgement

This first application under Section 439 of Criminal Procedure Code, 1973 has been filed by applicant, who is implicated in connection with Crime No.628/2018 registered at Police Station Barwaha, District Khargone (MP) for offence punishable under Sections 363, 366-A, 370, 370-A, 376, 376 (2) (N), 344 and 368 of the Indian Penal Code, 1860 and also under Section 5-L read with Section 6 of the Protection of Children from Sexual Offence Act, 2012.

The applicant is in custody since 26.11.2018.

As per prosecution case, on the basis of the allegations made by the prosecutrix, alleged offence under Sections 363, 366-A, 370, 370-A, 376, 376 (2) (N), 344 and 368 of the Indian Penal Code, 1860 and also under Section 5-L read with Section 6 of the Protection of Children from Sexual Offence Act, 2012 has been registered against the present applicant.

Learned counsel for the applicant has submitted that the applicant is a youth lady aged about 30 years; she has not committed any offence and he / she has falsely been implicated in the present crime. Now, the prosecutrix has been

examined before the trial Court on 03.10.2019 and she has not stated anything against the applicant and turn hostile. In these circumstances, no alleged offence is made out against the applicant. The applicant is in custody since 26.11.2018. The conclusion of the trial will take sufficiently long time. Co-accused Kundan @ Rajesh s/o Gokul Vaskle has already been enlarged on bail by this Court vide order dated 31.10.2019 passed in Miscellaneous Criminal Case No.43651/2019; and the case of the present applicant is similar to him. Under these circumstances, learned counsel for the applicant prays for grant of bail to the applicant.

Learned Public Prosecutor for the non-applicant / State of Madhya Pradesh opposes the bail application by contending that no sufficient ground is made out for releasing the applicant on bail; hence he prayed for rejection of the application.

Considering the facts and circumstances of the case and the arguments advanced by learned counsel for the parties, but without commenting on the merits of the case, the application filed by the applicant is allowed. The applicant is directed to be released on bail upon his / her furnishing a personal bond in the sum of Rs.50,000/- (Rupees fifty thousand only) with one solvent surety of the like amount to the satisfaction of trial Court, for his / her regular appearance before the trial Court during trial with a condition that he / she shall remain present before the Court concerned during trial and shall also abide by the conditions enumerated under Section 437 (3) of Criminal Procedure Code, 1973.

This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Certified copy, as per rules.