
(2022) 02 MP CK 0094

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.7887 Of 2022

Nageshwar @ Nagesh

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 14-02-2022

Acts Referred:

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

Indian Penal Code, 1860 — Section 363, 366, 376(2)(n)

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

Citation : (2022) 02 MP CK 0094

Hon'ble Judges : Subodh Abhyankar, J

Bench : Single Bench

Advocate : S.K. Meena, Sameer Verma

Final Decision : Allowed

Judgement

Subodh Abhayankar, J

They are heard. Perused the case diary / challan papers.

This is applicant's first bail application filed under Section 439 of Cr.P.C. The applicant is implicated in connection with Crime No.478/2021

registered at Police Station-Dalauda, District- Mandsaur MP) for offence punishable under Sections 363, 366, 376(2)(n) of the IPC and under

Sections 5L/6 of POCSO Act. The applicant is in custody since 06.1.2022.

Allegation against the applicant is of abduction and rape. Counsel for the applicant has submitted that the prosecutrix was major at the time of the

incident and a consenting party and she had left her house along with the applicant on her own volition on 24.12.2021 and they travelled from

Mandsaur to Jaora, from Jaora to Ujjain, again from Ujjain to Jaora, to Jaora to Indore and Indore to Shirdi and from Shirdi to Trimbakeshwar Nasik.

It is submitted that the applicant and the prosecutrix roamed around in a public transport and the prosecutrix has never raised any alarm regarding the offence committed by the applicant. It is further submitted that the applicant is in jail since 6.1.2021 and the final conclusion of the trial is likely to take sufficiently long time. Thus, it is prayed the application be allowed. Counsel for the State, on the other hand, has opposed the prayer. On due consideration of the submissions and on perusal of the case diary, this Court finds force with the contentions raised by the counsel for the applicant. Accordingly, without reflecting anything on the merits of the case, the application filed by under Section 439 of Cr.P.C. on behalf of the applicant is hereby allowed.

The applicant is directed to be released on bail upon furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one solvent surety of the like amount to the satisfaction of the 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) Criminal Procedure Code, 1973.

It is further observed that if the applicant is again found to be involved in any other offence during the trial, this order shall stand cancelled automatically without reference to the Court and the police will be at liberty to arrest the applicant in the present case also.

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.