

(2023) 07 MP CK 0039

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 29278 Of 2023

Pankaj Baghel

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 07-07-2023

Acts Referred:

Indian Penal Code, 1860 — Section 363, 376
Protection Of Children From Sexual Offences Act, 2012 — Section 5, 6
Code Of Criminal Procedure, 1973 — Section 164, 439

Citation : (2023) 07 MP CK 0039

Hon'ble Judges : Sunita Yadav, J

Bench : Single Bench

Advocate : Akhand Pratap Singh, Ankita Mathur

Final Decision : Allowed

Judgement

Sunita Yadav, J

The applicant has filed this first application u/S.439 of Cr.P.C. for grant of bail who has been arrested on 02.05.2023 by Police Station City Kotwali, District Bhind (M.P.) in connection with Crime No.97/2023 registered for the offence punishable under Sections 363, 376 of IPC and Sections 5/6 of POCSO Act.

Allegation against the present applicant-accused is that he abducted the prosecutrix and committed rape upon her.

Learned counsel for the applicant/accused argued that applicant is innocent and has been falsely implicated. It is further argued that entire prosecution story is highly improbable and unbelievable because the prosecutrix in her statement recorded before the Magistrate u/S.164 of Cr.P.C. on 28.03.2023 has not corroborated the case of prosecution that present applicant/accused committed rape upon her. However, on 03.04.2023, in her statement, she improvised her earlier version and made allegation against the present applicant/accused about rape, but she failed to explain why she did not tell the same fact earlier. The

applicant is in custody since 02/05/2023. The applicant has no criminal antecedents and he is permanent resident of District Bhind (M.P.) and there is no likelihood of his absconsion, if released on bail. Hence, he prays for grant of bail to the applicant.

Per contra, learned counsel for the State has vehemently opposed the bail application and prayed for its dismissal.

Heard learned counsel for the rival parties and perused the case diary available on record.

Considering the facts and circumstances of the case, but without expressing any opinion on merits of the case, this application is allowed and it is directed that the applicant be released on bail on furnishing a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety in the like amount to the satisfaction of the trial Court/committal Court.

This order will remain operative subject to compliance of the following conditions by the applicant:-

- 1) The applicant will comply with all the terms and conditions of the bond executed by him;
- 2) The applicant will cooperate in the investigation/trial, as the case may be;
- 3) The applicant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;
- 4) The applicant will not commit any other offence during pendency of the trial, failing which, this bail order shall stand cancelled automatically without further reference to the Bench.
- 5) The applicant will not seek unnecessary adjournments during the trial; and
- 6) The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

Learned State counsel is directed to send an e-copy of this order to the Station House Officer of the concerned Police Station for information and necessary action.

E- copy of this order be sent to the trial Court concerned for compliance, if possible, by the office of this Court.

Certified copy as per rules.