

(2022) 03 MP CK 0098

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 14291 Of 2022

Rachna Chauhan

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 31-03-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438, 438(2)

Indian Penal Code, 1860 — Section 363, 376(D), 506

Protection Of Children From Sexual Offences Act, 2012 — Section 3, 4

Citation : (2022) 03 MP CK 0098

Hon'ble Judges : Anil Verma, J

Bench : Single Bench

Advocate : Himanshu Thakur, Hitendra Tripathi

Final Decision : Disposed Of

Judgement

Anil Verma, J

Applicant has filed this second bail application under Section 438 of the Code of Criminal Procedure, 1973. The applicant is apprehending her arrest in connection with Crime No.463/2021 registered at P.S – Neemuch Cantt., Neemuch (M.P.) for commission of offence punishable under Section 363, 376(D), 506 of IPC and under Section 3/4 of POCSO Act.

As per the prosecution story, on 18.9.2021 minor prosecutrix was going to attend her school by bus. She was standing at Fabbara Chowk, Neemuch, at that time co-accused Jitendra Singh and his wife accused/applicant Rachna came there by their Maruti car and asked the prosecutrix that they will leave her at the school and after that they kidnapped her in their Maruti Car. Accused persons forcefully made to consume liquor to the prosecutrix and when she became semi-conscious, then co-accused Jitendra sexually exploited her and touched her private part to molest the modesty of prosecutrix. At the same time the Maruti car which was being driven by Jitendra, met with an accident. Accordingly offence has been registered.

Learned counsel for the applicant submits that the applicant is innocent and she has been falsely implicated in the aforementioned offence. He further submits that the applicant is a government servant, therefore, there is no apprehension of either running away from the court of justice or tampering any evidence. He further submits that PW-1, PW-2 Meena and PW-3 Sunita have been examined before the trial court and they have turned hostile and not supported the prosecution story and therefore, there is no evidence available against the applicant. The applicant has no criminal background. He further submits that the applicant and her husband being seated in front of the car have received serious injuries and the prosecutrix being seated at the back seat of the car has received minor injuries. Hence, he prays that applicant be released on anticipatory bail.

Per-contra, learned PL for respondent/State opposes the anticipatory bail application and prays for its rejection.

Perused the case diary as well as the impugned order passed by the court below and the earlier order passed by this court.

After considering all the facts and circumstances of the case, arguments advanced by both the parties, nature and gravity of allegation and also taking note of the fact that prosecutrix alongwith two other material witnesses has turned hostile and has not supported the prosecution case and nothing stated against the present applicant about commission of offence, I deem it proper to release the applicant on anticipatory bail.

Accordingly, without commenting on the merits of the case, the application is allowed. It is directed that in the event of applicant's arrest, the applicant be released on anticipatory bail upon her furnishing a personal bond in the sum of Rs.50,000/- (Rs. Fifty Thousand) with one solvent surety in the like amount to the satisfaction of arresting officer for her appearance before the Investigating Officer during the course of investigation as and when directed. Conditions of Section 438(2) Cr.P.C. shall also apply on the applicant during currency of bail.

With the aforesaid, the application stands disposed of.

C.C. as per rules.