
(2019) 08 MP CK 0016

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 29538 Of 2019

Raje Paliya

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 01-08-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 376

Citation : (2019) 08 MP CK 0016

Hon'ble Judges : Anand Pathak, J

Bench : Single Bench

Advocate : Pradeep Katare, Ravindra Sharma

Final Decision : Allowed

Judgement

1. This is the first application under Section 438 of the Cr.P.C filed by the applicant, who apprehends his arrest in connection with Crime No.130/2019, registered at Police Station-Dabra, District Gwalior, for the offences punishable under Sections 376 of IPC.

It is the submission of counsel for the applicant that it is the matter of false implication. The narration of story as reflected in the FIR and statement indicate the improbable events. It is the matter of tenency dispute because prosecutrix is the tetant of present applicant and to exert presure, she filed instant complaint. Therefore, applicant is having apprehension for arrest. Confinement would bring him social disrepute and personal inconvenience. He undertakes to cooperate in the investigation/trial and would make himself available as and when required. Therefore, the applicant may be given the benefit of anticipatory bail.

Learned Public Prosecutor for the State opposed the prayer and prayed for dismissal of this application.

Heard learned counsel for the parties and case diary perused. Counsel for the respondent/complainant has fairly submits that prosecutrix has no objection if

the applicant grants anticipatory bail.

Considering the submissions and facts and circumstances of the case, but without expressing opinion on merits of the case, I deem it appropriate to allow this application under Section 438 of Cr.P.C.. It is hereby directed that in the event of arrest, the applicant shall be released on bail on furnishing a personal bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety of the like amount to the satisfaction of Arresting Officer/Investigating Officer.

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

1. The applicant shall comply with all the terms and conditions of the bond executed by him;
2. The applicant shall cooperate in the investigation/trial, as the case may be;
3. The applicant shall 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 shall not commit an offence similar to the offence of which he is accused;
5. The applicant shall not seek unnecessary adjournments during the trial; and
6. The applicant shall not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.
7. Looking to the undertaking and intent of the applicant and looking to the fact that water is depleting day by day and this area is anticipated to come under Zero Day zone, it is imperative that applicant must install Water Harvesting System or Water Recharge System in his house in which he is residing within two months from today, if he has not installed the system already. If he has installed the system already, then he shall have to submit proof and photographs regarding this before the trial Court. Applicant shall seek necessary permission required, if any, in this regard from the concerned departments including Municipal Council, Gwalior and authorities shall facilitate and cooperate in this regard for installation of water recharge / harvesting system. Applicant shall have to maintain the said system in future on regular basis. After installation of system, applicant shall submit a report and compliance certificate (if required), as well as photographs in this regard before the registry of this Court, which shall be placed before this Court under the caption "Direction". This direction is being given by this Court in peculiar fact situation and looking to the intent and desire of the applicant to do some work for the betterment of Environment and Community. It is earnestly expected that this act of applicant would create an. Any default on behalf of applicant in plantation or caring of trees shall disentitle the applicant from enjoying the benefit of bail.

A copy of this order be sent to the Court concerned for compliance.

Certified copy as per rules.