

(2023) 06 MP CK 0078

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 26306 Of 2023

Roshan @ Raman Bihari

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 22-06-2023

Acts Referred:

Indian Penal Code, 1860 — Section 377, 506
Protection Of Children From Sexual Offences Act, 2012 — Section 3, 4
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2023) 06 MP CK 0078

Hon'ble Judges : Sunita Yadav, J

Bench : Single Bench

Advocate : Pawan Pathak, Rajeev Upadhyay

Final Decision : Allowed

Judgement

Sunita Yadav, J

The applicant has filed this second application u/S 439 Cr.P.C. for grant of bail. The application for the same relief was dismissed as withdrawn vide order dated 28.4.2023 passed in M.Cr.C. No.15893/2023.

The applicant has been arrested by Police Station Utila, District Gwalior in connection with crime No. 31/2023 registered for the offence punishable under Sections 377, 506 of the I.P.C. and Section 3/4 of the POCSO Act.

The allegation levelled against the applicant is that he committed sexual assault upon the victim.

Learned counsel for the applicant argued that applicant is an innocent person and has been falsely implicated. Victim PW-1 (page-11) and his father PW-2 (page-13) have been examined. They have not supported the prosecution case and turned hostile. After conclusion of investigation, charge sheet has been filed; therefore, no further custodial interrogation is required. Applicant is in custody since 15.03.2023. The applicant is permanent resident of District Gwalior.

Conclusion of trial is likely to take time and there is no likelihood of his absconson, if released on bail. On these grounds, he prays for grant of bail to the applicant.

On the other hand, learned State counsel opposed the application and prayed for its rejection.

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

Considering the overall 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 a 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/her;
- 2) The applicant will cooperate in the investigation/trial, as the case may be;
- 3) The applicant will not indulge himself/herself 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 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.