

(2024) 02 MP CK 0062

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 6885 Of 2024

Sachin

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 17-02-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 161, 439

Indian Penal Code, 1860 — Section 34, 306, 363, 376

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

Citation : (2024) 02 MP CK 0062

Hon'ble Judges : Sunita Yadav, J

Bench : Single Bench

Advocate : Mohit Bhadoriya, Rajendra Singh Yadav

Final Decision : Allowed

Judgement

Sunita Yadav, J

This is first application filed by the applicant under Section 439 of the Cr.P.C. for grant of bail relating to FIR No. 204 of 2023 registered at Police Station Karahiya, District Gwalior (M.P.) for the offence under Sections 363, 306, 34, 376 of IPC & Sections 3/4 of POCSO Act.

Learned counsel for the applicant argued that the applicant is innocent and has been falsely implicated. It is further argued that FIR is lodged against unknown persons. The statements of some of the witnesses i.e. Vinod, Manish who are sons of uncle as well as one Atar Singh were recorded u/S.161 of Cr.P.C. after two days when the body of deceased was found in which they have stated that they saw the present applicant/accused going behind the deceased, however, applicant came back from the midway, in these circumstances, theory of last seen is not attracted in respect to present applicant/accused. Further submission is that after three months, the statements of mother, sister and friend of deceased were recorded in which they have alleged that present applicant/accused threatened the deceased to make her obscene video viral, however, no

video has been seized during investigation. The allegation of sexual assault has not been made against present applicant/accused. Earlier applicant was granted bail by learned trial Court vide order dated 27.10.2023, however, after filing of charge-sheet, charges under the provisions of POCSO Act have been enhanced and applicant/accused was arrested on 06.02.2024 and since then he is in custody. After conclusion of investigation, charge-sheet has been filed, therefore, further custodial is no more required. Applicant has no criminal antecedents and he is the resident of District Gwalior (M.P.), therefore, there is no possibility of his absconding or tampering with the prosecution evidence. He is ready to abide by all the terms and conditions imposed by this Court while granting bail. On these grounds, he prays for grant of bail to the applicant.

Per contra, learned counsel for the State 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 shall not commit any 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.