

(2023) 08 MP CK 0133

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 37731 Of 2023

Sanjeev Lodhi

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 24-08-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 437(3), 439
Indian Penal Code, 1860 — Section 344, 366, 376(2)(n), 506(II)
Protection Of Children From Sexual Offences Act, 2012 — Section 5, 6

Citation : (2023) 08 MP CK 0133

Hon'ble Judges : Satyendra Kumar Singh, J

Bench : Single Bench

Advocate : Pallav Tripathi, G.S. Chauhan

Final Decision : Allowed/Disposed Of

Judgement

Satyendra Kumar Singh, J

1. Case Diary is available.

2. This is first application filed under Section 439 of Cr.P.C for grant of bail to the applicant as he has been arrested on 04.07.2023 in connection with Crime No.433/2023 registered at Police Station Karera, District Shivpuri for the offence punishable under Sections 366, 376(2)(n), 344, 506 (Part-II) of IPC and Section 5/6 of POCSO Act.

3. Prosecution case, in brief, is that applicant and prosecutrix were known to each other because they are neighbours. On 14.01.2022 when prosecutrix was all alone in her house, at that time, the applicant entered into her house and forcefully committed sexual intercourse with her. Thereafter, he committed rape upon her many times by giving the threats. On 11.05.2023 applicant forcefully got her seated on his motorcycle and took her to village Badanpur and kept her captivated there in a rented room. On the next day, he took her to Pichhore and kept her captivated till 30.06.2023 in a rented room and committed rape upon

her repeatedly.

4. Learned counsel for the applicant submits that allegation against the applicant that on 14.01.2022 he entered into the house of the prosecutrix and committed sexual intercourse with her forcefully is totally false. Prosecutrix has nowhere explained as to why she did not oppose with regard to the act of the applicant till 02.07.2023 when her statements were recorded during investigation. On 11.05.2023 prosecutrix was major and she had gone with the applicant on her own will. On 15.05.2023 she solemnized marriage with the applicant at Mahadev Mandir, Pichhore and, thereafter, lived with the applicant till 30.06.2023. She had gone with the applicant to the Court and executed affidavit in this regard. No offence is made out against the applicant. He has falsely been implicated in the matter. He is in custody since 04.07.2023 and trial will take time to conclude. Under these circumstances, the applicant may be enlarged on bail.

5. Learned counsel for the respondent/State as well as learned counsel for the complainant have vehemently opposed the prayer and submit that prosecutrix was minor at the time of incident as her date of birth is 10.03.2005. Due to the threats given by the applicant, she could not lodge the report. Offences alleged against the applicant are serious in nature, therefore, he is not entitled for bail.

6. Heard the learned counsel for both the parties.

7. Having considered the rival submissions, material pointed out by the learned counsel for the applicant, affidavit executed by the prosecutrix and the material produced on record with regard to the age of the prosecutrix, so also the other facts and circumstances of the case, without expressing any opinion on the merits of the case, the application is allowed.

7.1 It is directed that the applicant be released on bail upon his furnishing 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 concerned Court for his appearance before the Trial Court on all such dates as may be fixed in this behalf by the Trial Court during the pendency of trial. It is further directed that applicant shall comply with the provisions of Section 437 (3) of Cr.P.C.

8. This application is allowed and stands disposed of.

Certified copy, as per rules.