
(2013) 10 MP CK 0262
In the Madhya Pradesh High Court
Case No : M.Cr.C. No. 8527 of 2013

Sharvan Singh Rathor

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 29-10-2013

Acts Referred:

Citation : (2013) 10 MP CK 0262

Hon'ble Judges : D.K. Paliwal, J

Bench : Single Bench

Advocate : D. Nayak, for the Appellant; A.K. Shrivastava, Panel Lawyer, for the Respondent

Final Decision : Dismissed

Judgement

D.K. Paliwal, J.—Heard on the bail application. Perused the case diary

2. This is first application u/s 439 of Cr. P.C. The applicant has been arrested in Crime No. 216/2013 registered at Police Station, University, District Gwalior, for the offences punishable under Sections 376(2)(I), 342 of IPC and Section 3/4 of Protection of Child from Sexual Offences Act 2012.

3. As per the prosecution case, mother of the complainant was working as cook in the house of the applicant and was also discharging household work. 22.07.2013 mother of the complainant along with daughter Saumya and brother Abhi went to Gujarat. On 23.07.2013 applicant gave maza cold drink to the complainant aged 14 years. She became unconscious. She observed that there was bleeding from her private parts and was also feeling pain. The applicant has left the complainant closed in the flat and locked the flat from outside. On 25.07.2013, complainant cried from windows, then neighbours broke the lock of the flat and took out the complainant outside from the flat. Thereafter, the complainant went with her grandmother and uncle. The entire incident was narrated by the complainant to her grandmother. Earlier the incident was not disclosed as she was fearing. Report was lodged on 15.08.2013.

4. It is submitted by learned counsel for the applicant that applicant has falsely been implicated. Applicant is a 54 years old retired officer. Medical report does not corroborate the prosecution case. Hymen has been found intact. No injury has been found on private parts. It is further submitted that mother of the complainant has submitted an affidavit stating that no such act has been done with her daughter. He is in custody since 15.08.2013. Trial will take some time. Therefore, the applicant be released on bail.

5. The application is opposed by learned Panel Lawyer submitting that complainant is a minor girl and she has been sexually exploited by the applicant.

6. From the medical report it appears that hymen has been found intact. No injury has been found. On ossification test age of the complainant has been found above 12 years and below 14 years. It is true that the mother of the complainant has filed her affidavit stating good character of the applicant and nothing has been done by the applicant with her daughter in her absence. A false report has been lodged at the behest of grandmother. There is nothing on record to show that grandmother of the complainant has some grudge against the applicant. So far as affidavit of mother is concerned, it is pertinent to mention that she was not present at the spot. She had gone to Ahmedabad, Gujarat. In the case diary statement the complainant has corroborated what has been mentioned in her report. In the medical report also the complainant has narrated the incident to lady doctor who examined her. It is true that hymen has been found intact. But no question mark can be raised regarding the prosecution case.

7. Taking into consideration the aforesaid facts coupled with the age of the complainant, applicant is not entitled for bail. Hence, this M.Cr.C. stands dismissed.