

(2021) 07 MP CK 0057

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.33014 Of 2021

Shivam Sharma (Naee)

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 07-07-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 437(3), 439

Indian Penal Code, 1860 — Section 376(1), 405, 506

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

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(v)

Citation : (2021) 07 MP CK 0057

Hon'ble Judges : Anjuli Palo, J

Bench : Single Bench

Advocate : Vivek Agrawal, Shikha Baghel

Final Decision : Allowed

Judgement

Anjuli Palo, J

This is first application under section 439 Cr.P.C. for grant of regular bail on behalf of the applicant who has been arrested in connection with Crime

No.513/2021 registered at Police Station, Kolgawan, District Satna for offences under sections 376(1), 450, 506 of the Indian Penal Code and sections

3/4 of Protection of Children from Sexual Offences Act and section 3(2)(v) of the Scheduled Castes & Scheduled Tribes Act, 1989.

As per prosecution case, on 11.4.2021 the prosecutrix lodged a report that on 09.2.2021 at about 1 p.m. when her sister and brother-in-law (Jija) were

not at home at that juncture the applicant came and committed rape with her. As alleged, the applicant also threatened her not to disclose about rape

to anyone. Therefore, the Police registered aforesaid offences against the

applicant.

Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in the crimes in question. The applicant is custody since 13.4.2021. The prosecutrix is major. The applicant and prosecutrix know each other. There is delay in lodging the FIR. The medical report does not support the prosecution story. Accordingly, prayer has been made to release the applicant on bail.

Learned Panel Lawyer has opposed the prayer for bail.

Considering the over all facts and circumstances of the case, the prosecutrix was 17 years 9 months old at the time of incident, FIR has lodged belatedly without proper explanation, medical report is negative, the applicant and prosecutrix were well known to each other, without commenting on merits, the application is allowed.

It is directed that applicant - Shivam Sharma (Naee) shall be released on bail on his furnishing a personal bond in a sum of Rs.50,000/- (Rupees Fifty

Thousand Only) with one surety in the like amount to the satisfaction of the trial Court concerned for his appearance before the said Court on all such dates as may be fixed in this regard during the pendency of trial.

It is further directed that the applicant shall comply with the provisions of Section 437(3) of the Cr.P.C.

The jail authorities and the State Government are directed to follow the guidelines issued by the Health Ministry in the wake of Novel Corona Virus, before and after releasing the applicant.

The application is accordingly allowed.