
(2019) 10 MP CK 0065

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 39696 Of 2019

Sunny Verma Alias Sany

APPELLANT

Vs

State Of Madhya Pradesh And Ant.

RESPONDENT

Date of Decision : 15-10-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 363, 366, 376

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

Citation : (2019) 10 MP CK 0065

Hon'ble Judges : Anand Pathak, J

Bench : Single Bench

Advocate : Manish Nayak, Sanjeev Mishra, Vivek Mishra

Final Decision : Allowed

Judgement

Heard learned counsel for the parties and perused the case diary.

This is fifth bail application under Section 439 of Cr.P.C. on behalf of the applicant. None of the earlier bail applications of applicant dismissed on merits.

Applicant is in custody since 9/10/2018 in connection with Crime No.221/2018 registered at Police Station Madhoganj, District-Gwalior for the offence punishable under Sections 363, 366, 376 of IPC and Section 3/4 of POCSO Act.

It is the submission of learned counsel for the applicant that case is of false implication. Even otherwise, the statement of prosecutrix and other witnesses have already been recorded before the Court below vide PW/1 to PW/8 and therefore, chance of tampering with evidence/witnesses is remote. Confinement since 9/10/2018 amounts to pretrial detention. Applicant undertakes to cooperate in the trial and keep himself available as and when required by the trial Court. He further undertakes not to move in the vicinity of the complainant party and would not be a source of harassment and embarrassment to the complainant in any manner and to do some community service as directed by

this Court. He prayed for grant of bail.

Learned PP for the respondent-state as well as counsel for complainant opposed the prayer and prayed for its dismissal.

Considering the submissions made by learned counsel for the parties as well as the fact that confinement amounts to pretrial detention, without expressing any opinion on merits of the case, the application filed under Section 439 of Cr.P.C. is allowed. It is directed that applicant shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- (Rs. Fifty Thousand Only) with one solvent surety of the like amount to the satisfaction of the trial Court concerned for his regular appearance before the trial Court concerned on the dates fixed by the Court during the trial.

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 from disclosing such facts to the Court or to the Police Officer, as the case may be.
4. The applicant will not commit an offence similar to the offence of which he is accused and will not move in the vicinity of prosecutrix and also would not be a source of embarrassment or harassment to the complainant party in any manner;
5. The applicant will not seek unnecessary adjournments during the trial;
6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be;and
7. Further, aforesaid extension of benefit of bail shall be subject to the condition that applicant shall serve the Community Health Centre, Hazira, District Gwalior on every Monday and Tuesday from 9 am to 1 pm for six months and his role would be to assist the doctors/compounder while serving outdoor patients. He would not be allowed to move inside the operation theater and private wards and shall not be a source of infection and discomfort to the patients and concerned duty doctors shall ensure this. In March, 2020 applicant shall submit a report about the works done by him and suggestions, if any for improvement of the system.
8. This direction is given looking to the age of the applicant so that he can get a chance to assimilate in the main stream. CMHO/Hospital Superintendent, District Gwalior shall permit the applicant to work in the outdoor patient department only while assisting the ward boys and male nurses to serve the patients. The services

of the applicant shall also be utilized in maintaining cleanliness in the building and serving the patients and doing work like First Aid etc., so that applicant may inculcate some basis knowledge of First Aid or Emergency Care of patients which may be helpful for unforeseen exigencies or natural calamities wherein applicant may be helpful as a volunteer.

9. It is made clear that applicant shall not be a source of any infection to the patients and would confine himself in the work of cleanliness, registration of patients or those works which may not endanger the interest of any patient.

10. This direction is made by this Court as a test case to address the Anatomy of Violence and Evil by process of Creation and a step towards Alignment with Nature. The natural instinct of compassion, service, love and mercy needs to be rekindled for human existence as they are innately engrained attributes of human existence.

11. Any breach of condition or any activity contrary to the interest of patients and public would render the applicant dis-entitled from the relief granted by this Court.

CMHO, District Gwalior be informed accordingly.

A copy of this order be sent to the trial Court concerned for compliance.

Certified copy as per rules.