
(2021) 05 MP CK 0131

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.25288 Of 2021

Suraj @ Bhaiyalal Bhilala

APPELLANT

Vs

State Of M.P

RESPONDENT

Date of Decision : 27-05-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 164, 439
Indian Penal Code, 1860 — Section 363, 366, 376, 376(2)(n)
Protection Of Children From Sexual Offences Act, 2012 — Section 5, 6

Citation : (2021) 05 MP CK 0131

Hon'ble Judges : Rajeev Kumar Shrivastava, J

Bench : Single Bench

Advocate : Vibhor Kumar Sahu, PPS Bajjeeta

Final Decision : Allowed

Judgement

Rajeev Kumar Shrivastava, J

This is first application under Section 439 of CrPC for grant of bail.

The applicant has been arrested on 08/1/2021 in connection with Crime No.04/2021 registered at Police Station Bamori, District Guna for offence

under Sections 363, 366 and 376 (2) (n) of IPC and Section 5/6 of POCSO Act.

It is submitted by learned counsel for applicant Suraj @ Bhaiyalal Bhilala that the applicant has not committed any offence. He has falsely been

implicated. Statement of the prosecutrix under Section 164 of CrPC has been recorded wherein she has not stated anything about commission of

offence under Section 376 of IPC thereafter as an afterthought, ingredients of Section 376 has been incorporated in the present case and the statement

under Section 164 of CrPC was recorded with delay of one day. It is further submitted that the applicant is in custody since last more than four

months. Now, investigation is complete and charge-sheet has been filed and there is no possibility of conclusion of trial in near future. Hence, prayed

for grant of bail to the applicant.

Per contra, learned State counsel opposed the bail application and has submitted that the offence is of serious nature wherein prosecutrix has

specifically alleged the commission of offence under Section 376 of IPC against the present applicant. Hence, prayed to reject the bail application.

Heard learned counsel for the rival parties and perused the materials available on record.

Considering the arguments advanced by learned counsel for the applicant as well as other facts and circumstances of the case, without commenting

on merits of the case, the application is allowed and it is hereby directed that the applicant shall be released on bail on his furnishing personal bond of

Rs. 1,00,000/- (Rupees One Lakh only) with one solvent surety in the like amount to the satisfaction of the Court concerned for his regular

appearance before the Court concerned.

In view of COVID-19 pandemic, the Jail Authorities are directed that before releasing test shall be conducted and if it is found negative, then the

concerned local administration shall make necessary arrangements for sending the applicant to his/her house, and if the test is found positive then the

applicant shall be immediately sent to concerning hospital for her/his treatment as per medical norms. If the applicant is fit for release and if he/she is

in a position to make his/her personal arrangements, then he/she shall be released only after taking due travel permission from local administration.

After release, the applicant is further directed to strictly follow all the instructions which may be issued by the Central Govt./State Govt. or Local

Administration for combating the COVID-19. If it is found that the applicant has violated any of the instructions (whether general or specific) issued

by the Central Govt./State Govt. or Local Administration, then this order shall automatically lose its effect, and the Local Administration/Police

Authorities shall immediately take him/her in custody and would send him/her to the same jail from where he/she was released.

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/her;

2. The applicant will cooperate in the investigation/trial, as the case may be;
3. The applicant will not indulge herself/himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicant shall not commit an offence of which he is accused;
5. The applicant will not move in the vicinity of complainant party and 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 . The applicant will inform the SHO of concerned police station about his/her residential address in the said area and it would be the duty of the Public Prosecutor to send E-copy of this order to SHO of concerned police station for information;

Application stands allowed and disposed of.

E- copy of this order be sent to the trial Court concerned for Compliance.

Certified copy/ e-copy as per rules/direction.