
(2018) 08 MP CK 0202

In the Madhya Pradesh High Court

Case No : Criminal Miscellaneous Case No. 31639 Of 2018

Suraj Sagar Yadav

APPELLANT

Vs

The State Of Madhya Pradesh Thr

RESPONDENT

Date of Decision : 24-08-2018

Acts Referred:

Code of Criminal Procedure, 1898 — Section 164, 438
Indian Penal Code, 1860 — Section 376, 506

Citation : (2018) 08 MP CK 0202

Hon'ble Judges : Vivek Agarwal, J

Bench : Single Bench

Advocate : Prem Singh Bhadouria, G.S.Chouhan

Judgement

This is the first bail application filed by the applicant under Section 438 of Cr.P.C for anticipatory bail. The applicant is apprehending his arrest in

connection with Crime No.324/2018 registered at Police Station Kotwali, District Gwalior for the offence punishable under Sections 376 and 506 of

IPC.

Shri Bhadouria, learned counsel for the applicant submits that the applicant is a lawyer and is practicing at Gwalior, therefore, there is no likelihood of

his absconsion and on this ground he should be enlarged on bail.

It is also submitted that the applicant had appeared in Civil Judge Examination and the marriage of the applicant was to take place with the prosecutrix

but as he could not pass entrance examination conducted for Civil Judge, false case has been registered against him after five months of the alleged

incident. It is submitted that it is a case of false accusation or at best that of consent. On such ground that the incident had taken place on 10.2.2018

and the FIR has been lodged on 25.7.2018 after five months' lapse and there is

no explanation in lodging such delayed FIR by the prosecutrix, it is submitted that engagement had already taken place with the prosecutrix but because of failure of the applicant in the entrance examination, this report had been lodged.

When learned counsel for the applicant is asked to show from the bail application as to whether he has taken such grounds, learned counsel for the applicant submits that such grounds are not mentioned in the bail application but they were taken before the Court of Fifth Additional Sessions Judge and Special Judge POCSO but even that court has not considered such grounds and has rejected application for anticipatory bail without mentioning of the grounds taken by the applicant.

When learned counsel for the applicant is requested to show any ground taken to this effect that such arguments were advanced before the learned Special Judge but have not been considered, then he has expressed his inability to show any ground being raised in the petition.

As far as the case of the prosecution is concerned, it is submitted by the learned Public Prosecutor Shri G.S.Chouhan that the reason for delay in

lodging the FIR can be deduced from the statement recorded by the prosecutrix under Section 164 before the JMFC. It is submitted by the learned

Public Prosecutor that the statement under Section 164 of Cr.P.C. reveals that the applicant is the younger brother of husband of the sister of the

prosecutrix. They are known to each other and related to each other. She was taken out of the house on the pretext of attending a birthday party and

then at his house he had offered a cold drink on 10th February 2018 and after consuming such cold drink she had lost her consciousness. When she

recovered her consciousness, she found herself without any cloth. When she asked the applicant Suraj, then he had threatened her and kept on

blackmailing her as he had taken certain photographs. Under threat, she had not informed anybody about the incident but on 21.7.2018 he had

uploaded her photographs on a forged Face Book ID when prosecutrix had informed her father about the incident and then FIR was registered on

25.7.2018. It is also mentioned that applicant Suraj is in possession of a video showing the prosecutrix and the applicant in a compromising position. It

is also pointed out that the applicant has no respect for privacy of a woman and has enclosed several photographs alongwith this bail application,

authenticity of which is yet to be verified.

As far as plea taken by the applicant that he was engaged with the prosecutrix and they were to marry each other after declaration of result of Civil

Judge Examination conducted by the High Court of M.P. Jabalpur, it is apparent that the final result of the main examination was declared 06.04.2018

and interviews were conducted from 24.04.2018 to 09.05.2018. This main examination was held on 30.12.2017 and 31.12.2017. The result of the

preliminary examination was declared on 8.12.2017. Thus, in the light of the admission made by the learned counsel for the applicant that applicant had

failed in the preliminary examination, the story developed by the learned counsel for the applicant, though not mentioned in the pleadings, can not be

relied upon as the applicant had failed in the Civil Judge Examination on 8.12.2017 itself and examination for the year 2018 has yet not been

conducted.

As far as delay is concerned, there is reasonable explanation for delay. If a girl is raped and is blackmailed, then with a view to save her honour and

prestige from the outside world specially under the social milieu prevailing in India, a girl would like to keep such incident as confidential hoping that

one day she will be able to come out of it and when such act of threatening turns into blackmailing and things become unbearable like in the present

case, it happened on 21.7.2018 when some of her photographs were posted on a fake Face Book ID by the applicant, the FIR has been lodged.

Therefore, merely on the ground of delay in FIR or on the ground of consent, the applicant is not entitled to be enlarged on anticipatory bail.

Ground developed by the learned counsel for the applicant that the applicant was engaged to the prosecutrix is not borne out from any of the

documents on record. There are no documents on record to show that ever engagement between the prosecutrix and the applicant had taken place.

As far as plea of applicant being an advocate is concerned, the fact is that his provisional registration certificate valid from 10.04.2017 to 09.04.2019

has been placed on record as Annexure P/3, as was issued by the State Bar Council of M.P. Jabalpur on 10.04.2017. This certificate places greater

responsibility of a good moral conduct on the applicant after being registered as an Advocate and there was greater responsibility on his shoulder to

conduct himself in a more responsible manner rather than threatening, coercing

and blackmailing the prosecutrix.

In view of such facts, as have been discussed above, this court is of the opinion that the applicant has failed to make out any case in enlarging the

applicant on anticipatory bail. Thus, the application for anticipatory bail fails and is dismissed.