
(2019) 10 MP CK 0067

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 41431 Of 2019

Vikas @ Kana S/O Goutamlalji Dama

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 15-10-2019

Acts Referred:

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

Indian Penal Code, 1860 — Section 363, 366, 368, 109, 376(i)

Protection Of Children From Sexual Offence Act, 2012 — Section 3(k), 4, 16, 17

Citation : (2019) 10 MP CK 0067

Hon'ble Judges : S.K. Awasthi, J

Bench : Single Bench

Advocate : Sanjay Kumar Sharma, Arvind Yadav

Final Decision : Allowed

Judgement

Learned counsel for the applicant submits that he has cured the defect (s), as pointed out by the office.

They are heard. Perused case diary.

This second application under Section 439 of Criminal Procedure Code, 1973 has been filed by applicant, who is implicated in connection with Crime No.199/2019 registered at Police Station Manak Chowk Ratlam, District Ratlam (MP) for offence punishable under Sections 363, 366, 368, 109 and 376 (i) of the Indian Penal Code, 1860 and also under Sections 3 (k)/4 and 16/17 of the Protection of Children from Sexual Offence Act, 2012.

The applicant is in custody since 03.05.2019.

As per prosecution case, on the basis of the allegations made by the prosecutrix, offence under Sections 363, 366, 368, 109 and 376 (i) of the Indian Penal Code, 1860 and also under Sections 3 (k)/4 and 16/17 of the Protection of Children from Sexual Offence Act, 2012 has been registered against the present applicant.

Learned counsel for the applicant has submitted that the applicant is a young boy aged about 21 years and he has not committed any offence. Earlier bail application of the applicant was dismissed as withdrawn by order dated 20.08.2019 passed in Miscellaneous Criminal Case No.30055/2019 granting liberty to renew his prayer after recording the Court statement of the prosecutrix. Now, the prosecutrix has been examined before the trial Court on 19.09.2019 and she has not stated anything against the applicant and turn hostile. Her father and sister also have not supported the prosecution story. Under these circumstances, no alleged offence will be made out against the applicant. The applicant is in custody since 03.05.2019. Conclusion of the trial will take sufficiently long time. Under these circumstances, learned counsel for the applicant prays for grant of bail to the applicant.

Learned Public Prosecutor for the non-applicant / State of Madhya Pradesh opposes the bail application by contending that no sufficient ground is made out for releasing the applicant on bail; hence he prayed for rejection of the application.

Considering the facts and circumstances of the case and the arguments advanced by learned counsel for the parties, but without commenting on the merits of the case, the application filed by the applicant is allowed. The applicant is directed to be released on bail upon his / her furnishing a personal bond in the sum of Rs.50,000/- (Rupees fifty thousand only) with one solvent surety of the like amount to the satisfaction of trial Court, for his / her regular appearance before the trial Court during trial with a condition that he / she shall remain present before the Court concerned during trial and shall also abide by the conditions enumerated under Section 437 (3) of Criminal Procedure Code, 1973.

This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Certified copy, as per rules.