

(2023) 04 MP CK 0079

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 15489, 16118 Of 2023

Vishal And Others

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 19-04-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 164, 437(3), 439
Indian Penal Code, 1860 — Section 34, 363, 366, 368, 376, 376(2)(n), 506
Protection Of Children From Sexual Offences Act, 2012 — Section 3, 4

Citation : (2023) 04 MP CK 0079

Hon'ble Judges : Subodh Abhyankar, J

Bench : Single Bench

Advocate : Chandra Bhusan Pandey, Pranay Joshi

Final Decision : Allowed

Judgement

Subodh Abhyankar, J

This order shall govern the disposal of M.Cr.C.No.16118 of 2023 and M.Cr.C. No.15489 of 2023 as both the cases have arisen out of the same crime No.22/2023 registered at police station Rajgarh District Dhar (M.P.). They are heard. Perused the case diary/challan papers.

These are the first applications under Section 439 of Criminal Procedure Code, 1973, as he / she is implicated in connection with Crime No.22/2023 registered at police station Rajgarh District Dhar (M.P.). for offence punishable under Section Section 363, 366, 376,376(2)(n), 368,506/34 of IPC and Sections 3, 4 of the POCSO Act. The applicants are in custody since 09.02.2023 and 07.02.2023 respectively..

Allegations against the applicants are that they were also involved in the aforesaid case wherein the main allegation is against co-accused Gokul.

Counsel for the both the applicants have submitted that the prosecutrix was major at the time of incident and was a consenting party which is also apparent

from her statement recorded under Section 164 of Cr.P.C., wherein she has clearly stated that she traveled with Gokul from Uttarpradesh to Ahmedabad and thereafter came to Dhar and she has also stated that neither Gokul nor any person has done anything wrong with her. It is further submitted that the names of the present applicants do not found place in the statement recorded under Section 164 of Cr.P.C. No further recovery or discovery is to be made from the applicants. It is further submitted that applicants are in jail since 09.02.2023 and 07.02.2023 respectively and the final conclusion of trial is likely to take sufficient long time. Hence, it is submitted that the bail applications be allowed and they be released on bail.

Counsel for the respondent / State, on the other hand has opposed the prayer and it is submitted that no case for grant of bail is made out.

Having considered the rival submissions, perusal of the case diary and including the statement of the prosecutrix recorded under Section 164 of Cr.P.C and the fact that no further recovery and discovery is to be made from the applicants and that applicants are in jail since 09.02.2023 and 07.02.2023 respectively and the final conclusion of trial is likely to take sufficient long time in the considered opinion of this Court, the applicants' application deserves to be allowed.

Accordingly, without commenting on the merits of the case, the applications filed by both the applicants are allowed. The applicants VISHAL and SHADAB are directed to be released on bail upon their furnishing a personal bond in the sum of Rs.25,000/- (rupees twenty five thousand) each with one solvent surety each of the like amount to the satisfaction of the trial Court for their regular appearance before the trial Court during trial with a condition that they shall remain present before the court concerned during trial and shall also abide by the conditions enumerated under Section 437 (3) Criminal Procedure Code, 1973.

Certified copy as per rules.