THE HIGH COURT OF MADHYA PRADESH
MCRC-34326-2020
(KAMLESH VADI @ SHUKLA vs THE STATE OF MADHYA PRADESH)

JABALPUR
DATED : 18.12.2020 (through Video Conferencing)

Shri Rajeev Pathak Advocate for the applicant.

Shri Ayur Jain, Panel Lawyer for the respondent/State.

This is the applicant's second application for bail under Section 439 of Cr.P.C. The applicant is in custody since 19.02.2020 in connection with Crime No.13/2020 registered at Police Station Langhadol, District Singrauli (M.P.) for the offences punishable under Sections 376 (1), 506, 450 of IPC.

Earlier application i.e. M.Cr.C. No.13998/2020 was dismissed as withdrawn by this Court vide order dated 09.06.2020 with liberty to the applicant to renew prayer after examination of the prosecutrix.

Counsel for the applicant has submitted that when the earlier bail application was dismissed, the charge sheet was not available with him and it appears that the learned counsel for the respondent/State could not brought to the notice of this Court the statements of the prosecutrix recorded under Section 164 of Cr.P.C. in which she has not alleged that she has been subjected to rape. The counsel has also filed a copy of the statements of the prosecutrix recorded under Section 164 of Cr.P.C. to substantiate his submission.

Counsel for the respondent/State on the other hand has opposed the prayer, however, he was not in a position to state whether the statements of the prosecutrix were shown to this Court in the earlier bail application.

Heard counsel for the parties and perused the case diary including the statements of the prosecutrix recorded under Section 164 of Cr.P.C. in which the prosecutrix has simply stated that her brother-in-law has tried to outrage her modesty by holding her hand. So far as MLC is concerned, the same is also negative as there are no signs of recent intercourse with the prosecutrix. Further considering the fact that the applicant is in jail since 19.02.2020 and the final conclusion of the trial is likely to take sufficiently long time, in the

considered opinion of this Court, the applicant has made out a case for grant of bail. Accordingly, without commenting on the merits of the case, the application is **allowed**.

It is directed that applicant- **Kamlesh Vadi @ Shukla** shall be released on bail upon his furnishing personal bond in the sum of **Rs.25,000/- (Rupees Twenty Five Thousand Only)** with separate surety in the like amount to the satisfaction of the concerned trial Court for his appearance before the trial Court on all such dates as may be fixed in this behalf by the trial Court during the pendency of trial.

The prison authorities are also requested to ensure compliance of the order passed by the Supreme Court in Writ Petition No. 1/2020 and ensure that the applicant is examined by the jail doctor before his release.

If the applicant shows symptoms of COVID-19, the doctor shall forthwith direct him to be produced before the appropriate hospital designated for the detection and treatment of COVID-19 patients. If the doctor is of the opinion that the applicant is not affected with the virus, the jail authorities shall ensure his transportation from the jail to his place of residence.

A typed copy of this order be forwarded to the Office of the Advocate General and to Shri Ayur Jain, learned Panel Lawyer, on their respective email address, for intimation to the Police Station concerned. The office is requested to forward a copy of this order to the Learned Court below.

With the aforesaid, the present application filed under Section 439 of the Cr.P.C. stands **allowed** and **disposed of**.

Certified copy as per rules.

(Subodh Abhyankar)
Judge

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