THE HIGH COURT OF MADHYA PRADESH
MCRC-46614-2020
(AJEET PATEL @ AJEET vs THE STATE OF MADHYA PRADESH)

JABALPUR
DATED : 17.12.2020 (through Video Conferencing)

Shri Aadil Usmani, Advocate for the applicant.

Shri Rakesh Singh, Panel Lawyer for the respondent/State.

This is the applicant's first application for bail under Section 439 of Cr.P.C. The applicant is in custody since 08.07.2020 in connection with Crime No.1053/2019 registered at Police Station Maihar, District Satna (M.P.) for the offences punishable under Sections 363, 366, 376 (2)(n) of IPC and Section 5, 6 of the Protection of Children from Sexual Offences Act, 2012.

The allegation against the applicant is that he abducted the prosecutrix aged around 17 years and committed rape on her after she was taken from Maihar to Pune.

Counsel for the applicant has submitted that the applicant has been falsely implicated in the case as the prosecutrix was a consenting party and was major at the time when the incident took place. The counsel has also drawn the attention of this Court to the statements of the prosecutrix recorded under Sections 161 and 164 of Cr.P.C. wherein she herself has stated that she had gone with the applicant on her own volition. The counsel has further submitted that the applicant had also solemnized marriage with the prosecutrix at Satna only, which is also apparent from the statement of the prosecutrix and in view of the same, the applicant deserves to be released on bail as he is lodged in jail since 08.07.2020 and the final conclusion of the trial is likely to take sufficiently long time on account of Covid-19 situation.

Counsel for the respondent/State on the other hand has opposed the prayer and has submitted that the age of the prosecutrix at the time of incident was 17 years 03 months and even if it is a case of consent, the same is irrelevant.

Having considered rival submissions, taking note of the fact that the age of the prosecutrix is hovering around 18 years and she was a consenting party and also taking note of the fact that the final conclusion of the trial is likely to take sufficiently long time, *prima facie* this Court finds that the applicant has made out a case for bail. Accordingly, without adverting on the merits of the case, the application is **allowed**.

It is directed that applicant- **Ajeet Patel @ Ajeet** 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 Rakesh Singh, 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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