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**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE**

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

ON THE 30th OF JANUARY, 2024

MISC. CRIMINAL CASE No. 675 of 2024

BETWEEN:-

**DINESH S/O SHRI DILIP SINGH GURJAR, AGED ABOUT
22 YEARS, OCCUPATION: LABOUR ADARSH NAGAR
PINTO PARK GOLE KA MANDIR DISTRICT GWALIOR
(MADHYA PRADESH)**

.....APPLICANT

(SHRI RAVI DWIVEDI - ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH INCHARGE
POLICE STATION THROUGH POLICE STATION
MAHARAJPURA DISTRICT GWALIOR (MADHYA
PRADESH)**
- 2. PIDITA X-THROUGH P.S. MAHARAJPURA,
GWALIOR (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI DHEERAJ BUDHOLIYA - PANEL LAWYER)

*This application coming on for hearing this day, the court passed the
following:*

ORDER

Heard on I.A.No.2117 of 2024, application for taking documents on
record.

For the reasons mentioned therein, the application is allowed and the
documents are taken on record.

This **second** bail application has been filed by applicant under Section
439 of the Code of Criminal Procedure, 1973 for grant of bail in connection

with Crime No.533 of 2023 registered at Police Station Maharajpura, District Gwalior (M.P.) for offence punishable under Sections 354, 294, 323, 506, 394, 34 and added Section 354-D of IPC, Section 7/8 of POCSO Act and Section 11/13 of MPDVPK Act. First bail application was dismissed as withdrawn by this Court vide order dated 02.11.2023 passed in MCRC No.40129/2023, with liberty to refresh the prayer after examination of the victim.

As per the case of prosecution, victim reported to Police Station- Maharajpura, District Gwalior that on 26.04.2023 around 4:30 in the evening, she was going to coaching along with her brother. She was talking to her friends at Dussehra ground. Accused Dinesh and Raj Gurjar came there and threatened her friends. Her friends went away. Accused Dinesh held her hand with bad intention and molested her. Accused bite on her right hand and slapped her. Dinesh and Raj snatched her bag. She was weeping. After sometime, Dinesh came back and returned her bag. Her mobile phone was missing from bag. She reported the incident to teacher at coaching, thereafter, came to report. On such allegations, PS Maharajpura registered FIR at Crime No.533 of 2023 registered at Police Station Maharajpura, District Gwalior (M.P.) for offence punishable under Sections 354, 294, 323, 506, 34 IPC and Section 7/8 of POCSO Act. Statement of victim was recorded under Sections 161 and 164 of CrPC. Applicant was arrested on 06.07.2023, he is in custody ever since. On completion of investigation, Final Report was submitted on 26.10.2023.

Learned Counsel for the applicant, in addition to the grounds mentioned in the application, submits that applicant has been falsely implicated in this matter under pressure of family members of the victim. It is a case of friendly relationship between two young persons. Applicant is aged 22 years. Learned counsel referring to the statement of victim (PW-1) and her mother (PW-2)

submits that victim and her mother did not support the prosecution. Victim has denied all the allegation with regard to molestation and snatching of bag by the applicant. Learned counsel submits that material witness has been examined. There is no likelihood of tampering with remaining evidence. There is no likelihood of his absconsion leaving his family and home. Applicant has already undergone custody of six months. Jail incarceration is causing hardship to the applicant. Trial would take time to conclude. Therefore, the applicant may be extended the benefit of bail.

Per contra, learned counsel for the State opposes the bail application and cites criminal history of 13 cases against the applicant.

In reply, learned counsel for the applicant submits that applicant has been released on bail in all other matters and has never been convicted. Applicant is ready to abide by stringent condition for grant of bail.

Heard learned counsel for the parties and perused the case diary.

Considering the arguments advanced by both the parties and overall circumstances of the case, but without commenting on merits of the case, this Court is inclined to release the applicant on bail. Thus, the application is allowed.

Accordingly, it is directed that **applicant- Dinesh Singh Gurjar** shall be released on bail in relation to Crime No.533 of 2023 registered at Police Station Maharajpura, District Gwalior (M.P.) for offence punishable under Sections 354, 294, 323, 506, 394, 34 and added Section 354-D of IPC, Section 7/8 of POCSO Act and Section 11/13 of MPDVPK Act, upon furnishing a personal bond in the sum of **Rs.1,00,000/- (Rupees One Lac Only) with two sureties each of Rs. 50,000/- (Rs. Fifty Thousand Only)** with one solvent surety to the

satisfaction of the Trial Court, for compliance with the following conditions,:

(For the sake of convenience of understanding by accused and surety, the conditions of bail are also reproduced in Hindi as under):-

(1) Applicant shall remain present on every date of hearing as may be directed by the concerned court;

(1) आवेदक संबंधित न्यायालय के निर्देशानुसार सुनवाई की प्रत्येक तिथि पर उपस्थित रहेगा।

(2) Applicant shall not commit or get involved in any offence of similar nature;

(2) आवेदक समान प्रकृति का कोई अपराध नहीं करेगा या उसमें सम्मिलित नहीं होगा।

(3) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them/him/her from disclosing such facts to the Court or to the police officer;

(3) आवेदक प्रकरण के तथ्यों से परिचित किसी व्यक्ति को प्रत्यक्ष या अप्रत्यक्ष रूप से प्रलोभन, धमकी या वचन नहीं देगा, जिससे ऐसा व्यक्ति ऐसे तथ्यों को न्यायालय या पुलिस अधिकारी को प्रकट करने से निवारित हो।

(4) Applicant shall not directly or indirectly attempt to tamper with the evidence or allure, pressurize or threaten the witness;

(4) आवेदक प्रत्यक्ष या अप्रत्यक्ष रूप से साक्ष्य के साथ छेड़छाड़ करने का या साक्षी या साक्षियों को बहलाने-फुसलाने, दबाव डालने या धमकाने का प्रयास नहीं करेगा।

(5) During trial, the applicant shall ensure due compliance of provisions of Section 309 of Cr.P.C. regarding examination of witnesses in attendance;

(5) विचारण के दौरान, उपस्थित गवाहों से परीक्षण के संबंध में आवेदक धारा 309 दं.प्र.सं. के प्रावधानों का उचित अनुपालन सुनिश्चित करेगा।

(6) The applicant shall mark his presence before SHO PS

Maharajpura, Distt. Gwalior (M.P.) in first week of every month until conclusion of trial.

This order shall be effective till the end of trial. However, in case of breach of any of the precondition of bail, the trial Court may consider on merit cancellation of bail without any impediment of this order.

The trial Court shall get these conditions reproduced on the personal bond by the accused and on surety bond by the surety concerned, if any of them is unable to write, the scribe shall certify that he had explained the conditions to the concerned accused or the surety.

C.C. as per rules.

Vijay

(SANJEEV S KALGAONKAR)
JUDGE

