IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

ON THE 1st OF FEBRUARY, 2024

MISC. CRIMINAL CASE No. 1092 of 2024

BETWEEN:-

RAMKARAN S/O SHRI KANCHHEDILAL AHIRWAR, AGE 30 YEARS, RESIDENT OF VILLAGE RAJPUR TEHSIL SIRONJ DISTRICT VIDISHA (MADHYA PRADESH)

.....APPLICANT

(SHRI RAHUL BANSAL- ADVOCATE FOR APPLICANT)

AND

THE STATE OF MADHYA PRADESH THROUGH POLICE STATION PATHARIYA DISTRICT VIDISHA (MADHYA PRADESH)

.....RESPONDENT

(SMT. ABHA MISHRA- PUBLIC PROSECUTOR FOR RESPONDENT- STATE AND SHRI RAMRAJYA SINGH DANGI- ADVOCATE FOR COMPLAINANT)

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

ORDER

This **first** 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.88 of 2023 registered at Police Station Pathariya, District Vidisha (M.P.) for offence punishable under Sections 376, 450, 294, 506 read with Section 34 of IPC. Applicant is in judicial custody since 15-09-2023.

As per the case of prosecution, prosecutrix, aged 50 years, submitted a typed complaint to SHO, PS Kurwai alleging rape by Ramkaran Ahirwar (applicant). It is stated in the complaint that on 09-07-2023 around 11:00 in the

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night, she was sleeping at her home. Ramkaran entered her home and forcefully undressed her. Ramkaran committed rape on her. As she shouted, Ramkaran fled away. Next day around 09:00 in the morning, her son returned home. She narrated the incident to her son. Her son went to the house of Ramkaran to advice him. Kanchedilal, father of Ramkaran abused her son in filthy language and threatened to kill them if they report. On such allegations, PS Pathriya(Unarasital), Vidisha registered FIR at Crime No.88 of 2023 for offence punishable under Sections 376, 450, 294, 506, 34 of IPC against Ramkaran Ahirwar (applicant) and Kanchedi Ahirwar. Prosecutrix was forwarded for medico-legal examination. Her statements under Sections 161 and 164 of CrPC were recorded. Applicant was arrested on 15-09-2023, he is in custody ever since. On completion of investigation, Final Report was submitted on 13-12-2023.

Learned Counsel for the applicant, in addition to the grounds mentioned in the application, submits that applicant has been falsely implicated due to previous enmity. Learned Counsel referring to FSL report, submits that no specimens containing semen were found in vaginal slide, petticoat and pubic hair of prosecutrix. Applicant is aged 30 years. Applicant is agriculturist by profession. He has family to look after. There is no likelihood of his absconsion. There is no likelihood of his tampering with evidence. Jail incarceration on false allegation is causing hardship to applicant and his family. Trial would take time to conclude. Therefore, applicant may be extended the benefit of bail.

Per contra, learned Counsel for the State opposes the bail application on the ground of gravity of alleged offence.

Learned Counsel appearing for complainant submits that complainant has

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no objection with regard to grant of bail to applicant. Learned Counsel further submits that complainant had submitted "No Objection Affidavit" before the trial Court.

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 Ramkaran** shall be released on bail in connection with Crime No.88 of 2023 registered at Police Station Pathariya, District Vidisha (M.P.) for offence punishable under Sections 376, 450, 294, 506 read with Section 34 of IPC upon furnishing a personal bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety** of the same amount 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 he 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

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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 छेडछाड 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।

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.

(SANJEEV S KALGAONKAR)
JUDGE

MKB

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