IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SMT. JUSTICE SUNITA YADAV

ON THE 18th OF JANUARY, 2024

MISC. CRIMINAL CASE No. 2084 of 2024

BETWEEN:-

GOPALSINGH S/O SHRI PANCHAMSINGH GURJAR, AGED ABOUT 36 YEARS, OCCUPATION: AGRICULTURIST GRAM SHALUPURA THANA PANIHAR DISTRICT GWALIOR M.P. (MADHYA PRADESH)

.....APPLICANT

(MR. RAVI DWIVEDI - ADVOCATE FOR THE APPLICANT)

AND

1. **THE STATE OF MADHYA PRADESH INCHARGE POLICE STATION THROUGH POLICE STATION MADHOGANJ DISTRICT GWALIOR M.P. (MADHYA PRADESH)**

2. **PIDITA X P.S. MADHOGANJ (MADHYA PRADESH)**

.....RESPONDENTS

(MR. A.P.S. TOMAR - ADVOCATE FOR RESPONDENT NO. 1 - STATE AND MR. RAHUL KULSHRESTHA - ADVOCATE FOR RESPONDENT NO. 2 - PROSECUTRIX)

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

ORDER

This is the first application filed by the applicant under Section 439 of the Cr.P.C. for grant of bail relating to FIR No.519 of 2023 registered at Police Station Madhoganj, District Gwalior (M.P.) for the offence under Sections 376 (2) (n), 376 (3), 109, 323, 506 and 34 of IPC, Section 5/6, 16/17 of POCSO Act and Sections 3 (1) (w) and 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

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Learned counsel for the applicant argued that the applicant is innocent and has been falsely implicated. Entire prosecution story is highly suspicious and improbable in the light of the fact that the prosecutrix herself stated in her statement that she lives with her aunt (bua) along with aunt's sons Rahul and Ramu, two daughters-in-law as well as her grand mother, however, she never informed her family members about the incident for almost three months. It is further argued that the house where allegedly the incident occurred is situated in dense locality and it is not possible to commit such type of offence in that area. There is no evidence that the prosecutrix raised alarm at the time of commission of offence. FIR is lodged after a delay of three months on 05.11.2023 for which no plausible explanation has been given. Even mother of the prosecutrix has lodged many FIR under Section 376 of IPC against other persons and turned hostile. Judgements are annexed with the bail application. Further argument is that applicant is in custody since 13.12.2023. After conclusion of investigation, charge-sheet has already been filed, therefore, there is no requirement of further custodial interrogation of the applicant. Applicant is the permanent resident of District Gwalior (M.P.) having no criminal antecedents and there is no possibility of his absconsion or tampering with the prosecution evidence. On these grounds, he prays for grant of bail to the applicant.

On the other hand, learned State counsel opposed the application and prayed for its rejection.

Learned counsel for the prosecutrix has submitted that prosecutrix has no objection if bail is granted to the applicant.

Heard learned counsel for the rival parties and perused the case diary available on record.

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Considering the facts and circumstances of the case, but without expressing any opinion on merits of the case, this application is allowed and it is directed that the applicant be released on bail on furnishing a personal bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand only)** with one solvent surety in the like amount to the satisfaction of the trial Court/Committal Court.

This order will remain operative subject to compliance of the following conditions by the applicant:-

1) The applicant will comply with all the terms and conditions of the bond executed by him/her;

2) The applicant will cooperate in the investigation/trial, as the case may be;

3) The applicant will not indulge himself/herself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;

4) The applicant shall not commit any offence during pendency of the trial, failing which, this bail order shall stand cancelled automatically without further reference to the Bench;

5) The applicant will not seek unnecessary adjournments during the trial;

6) The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

Learned State counsel is directed to send an e-copy of this order to the Station House Officer of the concerned Police Station for information and necessary action.

E- copy of this order be sent to the trial Court concerned for compliance,

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if possible, by the office of this Court.

Certified copy as per rules.

(SUNITA YADAV)
JUDGE

AKS

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