IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SMT. JUSTICE SUNITA YADAV

ON THE 1st OF FEBRUARY, 2024

MISC. CRIMINAL CASE No. 2578 of 2024

BETWEEN:-

RAJESH KHAN S/O AASHIM KHAN, AGED ABOUT 37 YEARS, OCCUPATION: LABOUR, R/O VILLAGE KATILI KAMARI P.S. JIGNA DISTRICT DATIA (MADHYA PRADESH)

.....APPLICANT

(BY SHRI AYUSH CHOURASIA - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THROUGH POLICE STATION DINARA, DISTRICT SHIVPURI (MADHYA PRADESH)

.....RESPONDENT

(SHRI APS TOMAR - PUBLIC PROSECUTOR FOR THE STATE & SHRI SHASHI KANT GUPTA - ADVOCATE FOR THE RESPONDENT [COMP].)

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

ORDER

This is **first** application filed by the applicant under Section 439 of the Cr.P.C. for grant of bail relating to Crime No. 305 of 2023 registered at Police Station Dinara, District Shivpuri (M.P.) for the offence under Sections 376, 366, 342, 343, 506, 34 of IPC.

Learned counsel for the applicant argued that the applicant is innocent and has been falsely implicated. It is further argued that the prosecutrix in her statement recorded u/Ss.161 & 164 of Cr.P.C. has not made any allegation about sexual assault by applicant/accused. Further submission is that

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prosecution story about abduction seems to be improbable in view of the fact that prosecutrix visited different places in public ptransport and even as per her allegation present applicant/accused abducted her from her shop which was running at that time, however, there is no evidence that she tried to escape or raise alarm. Further argument is that present FIR is counterblast of FIR registered against uncle of prosecutrix for abduction of brother of applicant Annexure A/2 for which he has already filed complaint Annexure A/3. The applicant is in custody since 28.12.2023. After conclusion of investigation, charge-sheet has been filed, therefore, further custodial interrogation is no more required. The applicant is permanent resident of District Datia (M.P.) and there is no possibility of his absconding or tempering with prosecution case. On these grounds, he prays for grant of bail to the applicants.

Per contra, learned counsel for the State as well as counsel for the complainant have vehemently opposed the bail application and prayed for its rejection.

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

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;

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

3) The applicant will not indulge himself 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 an offence similar to the offence of which he/she is accused;

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

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, if possible, by the office of this Court.

Certified copy as per rules.

(SUNITA YADAV)
JUDGE

vpn

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