IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SMT. JUSTICE SUNITA YADAV

ON THE 2nd OF FEBRUARY, 2024

MISC. CRIMINAL CASE No. 3789 of 2024

BETWEEN:-

OMPRAKASH @ KARUA S/O SHRI DEVILAL BATHAM, AGED ABOUT 24 YEARS, OCCUPATION: LABORER, R/O VILLAGE HARSI POLICE STATION BELGADA DISTRICT GWALIOR (MADHYA PRADESH)

.....APPLICANT

(BY MR. HEMANT SINGH RANA - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THROUGH POLICE STATION BELGADA DISTRICT GWALIOR (MADHYA PRADESH)

.....RESPONDENTS

(BY MR. PRABHAT PATERIYA - DY. PUBLIC PROSECUTOR FOR RESPONDENT/STATE & MR.

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. 202 of 2023 registered at Police Station Belgada, District Gwalior (M.P.) for the offence under Sections 363, 366, 376(2)(n), 506 and 34 of IPC & Sections 3/4 of POCSO Act.

Learned counsel for the applicant argued that the applicant is innocent and has been falsely implicated which is evident from the fact that prosecutrix in her statement recorded before the Magistrate under Section 164 of Cr.P.C. on 16.11.2023, wherein she has not made allegation against the present applicant in

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respect to her abduction and rape, however, on 05.12.2023 she improvised her version and for the first time she made allegation against the applicant which makes the prosecution story doubtful. Allegedly, the prosecutrix was got missing on 07.11.2023 and recovered on 16.11.2023 and according to her statement she left her house on her own volition because she had a fight with her parents on the issue of her marriage against her wish. She wanted to marry with the present applicant. Further submission is that she also travelled in public transport on different places, however, there is no evidence that she ever tried to resist or raise alarm. The applicant is in custody since 22.12.2023. Investigation in the matter is over by filing of charge-sheet, therefore, custodial interrogation is no more required. The applicant has no criminal antecedents and he is permanent resident of District Gwalior (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 has 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.25,000/- (Rupees Twenty Five 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

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conditions by the applicant:-

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

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

(LJ*)

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