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. 4401 of 2024

BETWEEN:-

SURESH SAKHWAR S/O SHRI HUKUM SAKHWAR, AGED ABOUT 30 YEARS, GRAM BADFARA THANA AND TEHSIL AMBAH DISTRICT MORENA (MADHYA PRADESH)

.....APPLICANT

(MR. DINESH SINGH TOMAR - ADVOCATE FOR THE APPLICANT)

AND

1. **THE STATE OF MADHYA PRADESH INCHARGE POLICE STATION THROUGH POLICE STATION AMBAH DISTRICT MORENA (MADHYA PRADESH)**

2. **ABHIYOKTRI THROUGH POLICE STATION AMBAH, MORENA MORENA (MADHYA PRADESH)**

.....RESPONDENTS

(MR. GIRRAJ SONI - PANEL LAWYER FOR RESPONDENT NO. 1 - STATE AND MR. MANVARDHAN SINGH TOMAR - 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 Crime No.08 of 2024 registered at Police Station Ambah, District Morena (M.P.) for the offence under Sections 376 and 506 of IPC.

Learned counsel for the applicant argued that the applicant is innocent and has been falsely implicated. Entire prosecution story is highly improbable as

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allegedly, the incident occurred on 23.12.2023 in the school building in the afternoon, however, there is no evidence that prosecutrix raised any alarm at the time of incident. It is further argued that prosecutrix has not made complaint to anyone or filed the FIR until 06.1.2024 and no plausible explanation has been given in this regard. In the FIR and statement recorded under Section 161 Cr.P.C., allegations in respect to making any obscene video has not been levelled by the prosecutrix. Further argument is that prosecutrix is a major lady and at the most, this is a case of consensual relationship. Learned counsel for the applicant is in custody since 06.1.2024. Applicant is the permanent resident of District Morena (M.P.) and there is no possibility of his absconsion or tampering with the prosecution evidence. Hence, he prays for grant of bail to the applicant.

Per contra, learned Public Prosecutor for the respondent/State as well as learned counsel for the prosecutrix vehemently opposed the bail application and prayed for its dismissal.

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 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

AKS

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