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. 4654 of 2024

BETWEEN:-

SHIVAM GAUR S/O SHRI KEDAR GAUD, AGED ABOUT 20 YEARS, DR. GAUD WALI GALI GANGARAMKA PURA BANMOR DISTRICT MORENA (MADHYA PRADESH)

.....APPLICANT

(SHRI SANJAY SINGH, LEARNED COUNSEL FOR THE PETITIONER) .

AND

THE STATE OF MADHYA PRADESH INCHARGE POLICE STATION THROUGH POLICE STATION MAHILA THANA DISTRICT MORENA (MADHYA PRADESH)

.....RESPONDENTS

(SHRI DINESH SAVITA - P.L- FOR THE RESPONDENT NO. 1)

(SHRI ABHISHEK MISHRA- ADVOCATE APPEARED FOR THE RESPONDENT/COMPLAINANT).

This application coming on for admission hearing 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. 33 of 2023 registered at Police Station Mahila Thana, District Morena (M.P.) for the offence under Sections 376 (2) (n), 384, 506 of IPC.

Learned counsel for the applicant argued that applicant is an innocent person and has been falsely implicated. He further argued that applicant is the only earning member of his family. He further argued that the entire prosecution story

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is highly improbable and suspicious as the prosecutrix who is a major woman aged 29 years despite alleged sexual assault made by the applicant on various places and dates has not lodged any report or made any complaint against the present applicant. It is further submitted that as per allegation, incident occurred between 23/09/2023 to 07/10/2023, however, FIR was lodged on 25/10/2023 and no plausible explanation has been put forth by the prosecution in regard to delay in lodging FIR. It is further submitted that the alleged obscene video of the prosecutrix made by the applicant has not been recovered from the possession of the present applicant. The applicant is in custody since 21/11/2023 and he has no criminal antecedents. Investigation stands completed by filing of the charge sheet and further custodial interrogation of the applicant may not be required. The applicant is permanent resident of District Morena. Conclusion of trial is likely to take time and there is no likelihood of his absconsion, if released on bail. On these grounds, he prays for grant of bail to the applicant.

Per contra, learned counsel for the State 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. 25,000/- (Rupees Twenty Five Thousand Only) with one solvent surety** in the like amount to the satisfaction of the trial Court.

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

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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 will not commit any other offence or will not repeat the offence in future. In case, if he/she is found involving in the offence of the same nature, this bail order shall stand cancelled automatically without further reference to the Bench.

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

Durgekar

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