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. 4676 of 2024

BETWEEN:-

ABHISHEK AHIRWAR S/O SHRI RAMSWAROOP, AGED ABOUT 22 YEARS, VILLAGE GUJARKHEDI TEH KUMBHRAJ DISTRICT GUNA MP (MADHYA PRADESH)

.....APPLICANT

(SHRI ANIKET BHADORIA, LEARNED COUNSEL FOR THE PETITIONER) .

AND

THE STATE OF MADHYA PRADESH INCHARGE POLICE STATION THROUGH POLICE STATION KUMBHRAJ DISTRICT GUNA MP (MADHYA PRADESH)

.....RESPONDENTS

(SHRI DINESH SAVITA - P.L.- APPEARING ON BEHALF OF ADVOCATE GENERAL).

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. 401 of 2023 registered at Police Station Kumbhraj, District Guna (M.P.) for the offence under Sections 363 and added 366, 376 (2) (n) of IPC and section 5/6 of POCSO Act.

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 allegedly the prosecutrix got missing on 22/11/2023 and recovered on 13/01/2024 and she lived with the

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applicant for almost one and a half month. As per statement of the prosecutrix recorded under section 164 of Cr.P.C, her age is stated to be 25 years. She left her parental house on her own volition, therefore, question of abduction of the prosecutrix does not arise. It has further been stated in her statement recorded under section 164 of Cr.P.C. that the prosecutrix has solemnized marriage with the applicant and visited different places by public transport, however, there is no evidence available on record that she ever tried to escape or raised any alarm against the present applicant. Under these circumstances, the entire prosecution story becomes doubtful. The applicant is in custody since 13/01/2024 and he has no criminal antecedents. Investigation is nearing completion and further custodial interrogation of the applicant may not be required. The applicant is permanent resident of District Guna. 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. 50,000/- (Rupees Fifty 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:-

1) The applicant will comply with all the terms and

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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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