IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SMT. JUSTICE SUNITA YADAV

ON THE 9th OF JANUARY, 2024

MISC. CRIMINAL CASE No. 45036 of 2023

BETWEEN:-

BABU PARIHAR S/O SHRI RAMESH PARIHAR, AGED ABOUT 18 YEARS, OCCUPATION: LABOUR, R/O VILLAGE KUMHAUHA POLICE STATION DINARA DISTRICT SHIVPURI (MADHYA PRADESH)

.....APPLICANT

(BY MR. ANAND KUMAR GUPTA - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH POLICE STATION DINARA DISTRICT SHIVPURI (MADHYA PRADESH)**

2. **ABHIYOKTRI THROUGH POLICE STATION DINARA SHIVPURI SHIVPURI (MADHYA PRADESH)**

.....RESPONDENT/STATE

(MRS. ABHA MISHRA - PUBLIC PROSECUTOR)

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 CrPC for grant of bail relating to FIR No. 206 of 2023 registered at Police Station Dinara, District Shivpuri (M.P.) for the offence under Sections, 376, 506 of IPC and Section 3,4 of POCSO Act.

Learned counsel for the applicant argued that the applicant is innocent and has been falsely implicated. There is material improvisation in the statement

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of the prosecutrix recorded under Section 164 of Cr.P.C. that makes the prosecution story suspicious. Even in the DNA report dated 31.10.2023 is not corroborative. Under these circumstances so also in light of the fact that applicant is in custody since 24.08.2023. Investigation has already been completed by filing of charge-sheet, therefore further custodial interrogation is no more required. The applicant is permanent resident of District Shivpuri. 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 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

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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

(LJ*)

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