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**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE**

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

ON THE 23rd OF JANUARY, 2024

MISC. CRIMINAL CASE No. 56935 of 2023

BETWEEN:-

**MAHESH @ DANT SIKARWAR S/O LATE SHRI
RAMESHWAR SINGH, AGED ABOUT 55 YEARS,
OCCUPATION: KRASHAK GRAM UTTAMPURA
DISTRICT MORENA MP (MADHYA PRADESH)**

.....APPLICANT

(SHRI RAJU SINGH SIKARWAR, LEARNED COUNSEL),

AND

**THE STATE OF MADHYA PRADESH INCHARGE POLICE
STATION THROUGH POLICE THANA DEVGARH
DISTRICT MORENA MP (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI PRAMOD KUMAR PACHORI, LEARNED PP),
.....

*This application coming on for HEARING this day, the court passed
the following:*

ORDER

This first bail application has been filed by applicant under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail in connection with Crime No.18 of 2023 registered at Police Station Devgarh District Morena (M.P.) for offence punishable under Sections 376, 341, 323 of IPC. Applicant is in judicial custody since 28-08-2023.

As per the case of prosecution, prosecutrix, aged around 35 years, reported to Sub Inspector Arti Rathore of PS Civil Lines that on 15.02.2023 around 7 in the evening, she was returning home after collection of Bajra.

Accused Mahesh (applicant) met her on way. Accused pushed her in the field of Mustard and manhandled her. She sustained injuries in both the hands, lips and abdomen. Thereafter, Mahesh committed rape on her and fled away. She informed her Sister-in-law and came to report along with her. On such information, PS Devgarh registered FIR at Crime No.18 of 2023 for offence punishable U/s 376, 341 and 323 of IPC Prosecutrix was forwarded for medico-legal examination. Injuries of contusion and abrasions were found on her person. Statement of prosecutrix was recorded U/s 161 and 164 of Cr.P.C. Statements of other witnesses have been recorded. Applicant was arrested on 28.08.2023. He is in custody ever since. On completion of investigation, Final Report was submitted on 27-10-2023.

Learned Counsel for the applicant, in addition to the grounds mentioned in the application, submits that applicant has been falsely implicated in this matter. Minor scuffle between the parties was aggravated to false allegation of rape against the applicant due to political rivalry between the parties. Learned counsel referring to the DNA report dated 31.10.2023, submits that the DNA profile found in the source material of the prosecutrix does not match with the DNA profile found in source material of the applicant which goes to show that allegation of rape against the applicant is false. Learned counsel submits that the applicant is 55 years. He is agriculturist by profession. He has a family to look after. There is no likelihood of his absconsion leaving his family and agricultural field. There is no likelihood of tampering with evidence by the applicant. Trial would take time to conclude. Therefore, applicant may also be extended the benefit of bail.

Per contra, learned Counsel for the State opposes the bail application on the ground of gravity of alleged offence and cites criminal history of two cases

against the applicant.

In reply, learned counsel for the applicant submits that other two cases relate to minor offences. Applicant was extended benefit of bail in other matters. He has never been convicted.

Heard learned counsel for the parties and perused the case diary.

Considering the arguments advanced by both the parties and overall circumstances of the case, but without commenting on merits of the case, this Court is inclined to release the applicant on bail. Thus, the application is allowed.

Accordingly, it is directed that applicant **Mahesh alias Dant Sikarwar** shall be released on bail in connection with No.18 of 2023 registered at Police Station Devgarh District Morena (M.P.) for offence punishable under Sections 376, 341, 323 of IPC, upon furnishing a personal bond in the sum of **Rs.50,000/- (Rupees fifty thousand only)** with one surety of the same amount to the satisfaction of the Trial Court, for compliance with the following conditions, **:(For the sake of convenience of understanding by accused and surety, the conditions of bail are also reproduced in Hindi as under):-**

(1) Applicant shall remain present on every date of hearing as may be directed by the concerned court;

(1) आवेदक संबंधित न्यायालय के निर्देशानुसार सुनवाई की प्रत्येक तिथि पर उपस्थित रहेगा।

(2) Applicant shall not commit or get involved in any offence of similar nature;

(2) आवेदक समान प्रकृति का कोई अपराध नहीं करेगा या उसमें सम्मिलित नहीं होगा।

(3) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to

dissuade them/him/her from disclosing such facts to the Court or to the police officer;

(3) आवेदक प्रकरण के तथ्यों से परिचित किसी व्यक्ति को प्रत्यक्ष या अप्रत्यक्ष रूप से प्रलोभन, धमकी या वचन नहीं देगा, जिससे ऐसा व्यक्ति ऐसे तथ्यों को न्यायालय या पुलिस अधिकारी को प्रकट करने से निवारित हो।

(4) Applicant shall not directly or indirectly attempt to temper with the evidence or allure, pressurize or threaten the witness;

(4) आवेदक प्रत्यक्ष या अप्रत्यक्ष रूप से साक्ष्य के साथ छेड़छाड़ करने का या साक्षी या साक्षियों को बहलाने-फुसलाने, दबाव डालने या धमकाने का प्रयास नहीं करेगा।

(5) During trial, the applicants shall ensure due compliance of provisions of Section 309 of Cr.P.C. regarding examination of witnesses in attendance;

(5) विचारण के दौरान, उपस्थित गवाहों से परीक्षण के संबंध में आवेदक धारा 309 दं.प्र.सं. के प्रावधानों का उचित अनुपालन सुनिश्चित करेगा।

This order shall be effective till the end of trial. However, in case of breach of any of the precondition of bail, it shall become ineffective without reference to the Court.

The trial Court shall get these conditions reproduced on the personal bond by the accused and on surety bond by the surety concerned, if any of them is unable to write, the scribe shall certify that he had explained the conditions to the concerned accused or the surety.

C.C. as per rules.

(SANJEEV S KALGAONKAR)
JUDGE

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