

1
**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

**BEFORE
HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR
ON THE 10th OF JANUARY, 2024**

MISCELLANEOUS CRIMINAL CASE No. 57684 of 2023

BETWEEN:-

**GOLU S/O MITTHULAL, AGED ABOUT 19 YEARS,
RESIDENT OF BANGLA CHAURHA, TEHSIL
MUNGAWALI, DISTRICT ASHOKNAGAR (MADHYA
PRADESH)**

.....APPLICANT

(SHRI ADITYA SHARMA -ADVOCATE FOR THE APPLICANT)

AND

**THE STATE OF MADHYA PRADESH THROUGH POLICE
STATION SIRONJ DISTRICT VIDISHA (MADHYA
PRADESH)**

.....RESPONDENT

**(SHRI LOKENDRA SHRIVASTAVA - PUBLIC PROSECUTOR FOR THE
RESPONDENT-STATE)**

.....
*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.290/2023 registered at Police Station Sironj, District Vidisha (M.P.) for offences punishable under Sections 363, 366, 343, 376(2)(n) of the IPC and Sections 5 and 6 of the POCSO Act. The applicant is in judicial custody since 16/07/2023.

As per the case of prosecution, mother of the prosecutrix submitted a missing person Report No.52/23 with PS Sironj, District Vidisha on

13/07/2023 that her daughter, aged about 16 years and 6 months, is missing since 10.00 am from 10/07/2023. Some unknown person has allured and taken her daughter. On such allegations, Police Station Sironj, District Vidisha registered FIR at Crime No. 290/2023 for offence punishable under Section 363 of the IPC. During course of investigation, prosecutrix was recovered on 15/07/2023 and her statements under Sections 161 and 164 of the Cr.P.C were recorded. She stated that she used to talk with her neighbor Golu (applicant). On 10/07/2023, she told her mother that she is going to pick up used bottles but she went to bus stand where she met Golu. He took her to some village. They stayed in a hut where they got married. Golu forcefully committed sexual assault with her. Police arrived the hut and brought her back to Sironj. Applicant was arrested on 16/07/2023, he is in custody ever since. Thereafter, prosecution for offence punishable under Sections 366, 343 and 376(2)(n) of the IPC and Section 5/6 of the POCSO Act was added. After completion of investigation, final report was submitted on 26/09/2023.

Learned Counsel for the applicant, in addition to the grounds mentioned in the application, submits that the applicant is aged 18 years. It is a case of romantic relationship between two young persons. Applicant has falsely been implicated in this matter by the victim under pressure of her family. Applicant was not aware of minority of the victim and consequences of their acts. No criminal antecedent is reported against the applicant. There is no likelihood of his absconsion leaving his family and home. Final report has been submitted, therefore, there is no likelihood of his tampering with the evidence. Jail incarceration is causing hardship to young applicant. The trial would take time to conclude. Therefore, applicant may 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.

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, regard being had to young age of the applicant, 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 GOLU** shall be released on bail in relation to Crime No.290/2023 registered at Police Station Sironj, District Vidisha (M.P.) for offence punishable under Sections 363, 366, 343, 376(2)(n) of the IPC and Section 5 and 6 of the POCSO Act, upon furnishing a personal bond in the sum of **Rs. 50,000/- (Rs. Fifty Thousand Only)** with one solvent 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 applicant 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, the Trial Court may consider on merit cancellation of bail without any impediment of this order.

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

Prachi