IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SMT. JUSTICE SUNITA YADAV

ON THE 4th OF JANUARY, 2024

MISC. CRIMINAL CASE No. 57907 of 2023

BETWEEN:-

ASHOK JATAV S/O SHRI RAMSWAROOP JATAV, AGED ABOUT 25 YEARS, GRAM MARKAPURA KAIMARAKALAN POLICE THANA TENTRA DISTRICT MORENA MP (MADHYA PRADESH)

.....APPLICANT

(BY PRADEEP KATARE - ADVOCATE)

AND

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

.....RESPONDENT

(BY MR. DINESH SAVITA - PUBLIC PROSECUTOR)

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

ORDER

This is the first application filed by the applicant under Section 439 of the CrPC for grant of bail relating to FIR No. 56 of 2023 registered at Police Station Rampurkalan, District Morena (M.P.) for the offence under Sections 363, 366, 376, 376 (2) (n) of IPC and Section 3/4 of POCSO Act.

Learned counsel for the applicant argued that applicant is innocent and has been falsely implicated. Entire prosecution story is highly doubtful. The prosecutrix alleged got missing on 21.4.2023 and was recovered on 09.5.2023. During this period, she visited many places by public transport with the

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applicant - accused, however, there is no evidence that she ever tried to escape or raised alarm. It is further argued that there is material variations and improvisation in the statement of the prosecutrix recorded under Section 164 CrPC from the statement recorded under Section 161 CrPC. Further argument is that applicant is in custody since 30.5.2023. After conclusion of investigation, charge-sheet has already been filed, therefore, there is no requirement of further custodial interrogation of the applicant. Applicant is the permanent resident of District Morena (M.P.) and there is no possibility of his absconsion or tampering with the prosecution evidence. Applicant has no criminal antecedents. Under these circumstances, he is entitled to get benefit of bail.

On the other hand, learned State counsel vehemently opposed the bail application and prayed for its rejection.

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/committal 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

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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 shall not commit an offence similar to the offence of which he/she is accused;

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

AKS

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