IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PREM NARAYAN SINGH

ON THE 2nd OF FEBRUARY, 2024

MISC. CRIMINAL CASE No. 2978 of 2024

BETWEEN:-

DINESH JAMADAR BAGRI S/O KALU JAMADAR,
AGED ABOUT 24 YEARS,
OCCUPATION: LABOR
R/O 172, WARD NO. 1 VILLAGE CHIPYA
TEHSIL AGAR DISTT. AGAR
(MADHYA PRADESH)

.....APPLICANT

(SHRI OMPRAKASH SOLANKI - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH**
   STATION HOUSE OFFICER THROUGH
   POLICE STATION AGAR, AGAR MALWA
   (MADHYA PRADESH)

2. **VICTIM X THROUGH**
   P.S. AGAR DISTRICT AGAR MALWA
   (MADHYA PRADESH)

.....RESPONDENTS

(SHRI SURENDRA GUPTA - GOVT. ADVOCATE)

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

ORDER

Heard and perused the record.

This is the second bail application filed on behalf of the applicant under Section 439 of the Code of Criminal Procedure for grant of bail in relation to Crime/FIR No.37/2023 dated (not mentioned), registered at Police Station-Agar, District-Agar Malwa for the offence punishable under Sections 354,

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354(A), 506 of IPC, 1860 and Sections 7/8, 9(I)/10, 9(N)/10 of Protection of Children from Sexual Offences Act, 2012. Applicant is in custody since 25.05.2023. Earlier application was dismissed as withdrawn vide order dated 19.07.2023 passed in M.Cr.C.No.30110/2023.

2. Allegation against the applicant is that of commission of rape with the prosecutrix.

3. Learned counsel for the applicant submitted that earlier application of the applicant was dismissed as withdrawn vide order dated 19.07.2023 passed in M.Cr.C. No.30110/2023 with liberty renew the prayer after recording the statement of the prosecutrix and her parents and now since the statement of the prosecutrix and her father have been recorded, the present application has been filed. In the statement recorded before the trial Court, the prosecutrix and her father have not supported the prosecution story and turned hostile. The applicant is in jail since 25.05.2023 and final conclusion of trial will take sufficient time. On the aforesaid grounds, counsel prays for grant of bail.

4. Learned Govt. Advocate has opposed the prayer and prayed for its rejection.

6. Looking to the facts and circumstances of the case, custody period of the applicant, and the fact that the prosecutrix and her father have turned hostile, without commenting on the merits of the case, this application is allowed.

7. It is directed that the applicant/accused be released on bail on his 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 for securing his presence before the said Court on all the dates of hearing fixed in this regard during trial. It is also directed that the applicant

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shall comply with the provisions of Section 437(3) Cr.P.C.

8. This order shall remain effective till the end of the trial but in case of bail jump and breach of any of the pre-conditions of bail, it shall become ineffective and cancelled without reference to this Bench.

Certified Copy as per rules.

(PREM NARAYAN SINGH)
JUDGE

sumathi

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