IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE ANIL VERMA

ON THE 2nd OF FEBRUARY, 2024

MISC. CRIMINAL CASE No. 3258 of 2024

BETWEEN:-

BALRAM S/O JAGDISH, AGED 21 YEARS, OCCUPATION: LABOUR R/O SHANTINAGAR, AMONA, DISTRICT DEWAS (MADHYA PRADESH)

.....APPLICANT

(BY SHRI TUSHAR SODANI - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH POLICE STATION PACHOR DISTRICT RAJGARH (MADHYA PRADESH)**

2. **VICTIM X THROUGH P.S. PACHORE DIST RAJGARH (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI HEMANT SHARMA - GOVERNMENT ADVOCATE FOR STATE)
(SHRI MAKHAN SINGH SONDHIYA - ADVOCATE FOR RESPONDENT NO.2.)

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

ORDER

This is the third application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail relating to Crime No. 146/2023 registered at Police Station Pachor District Rajgadh (M.P.) for the offence under Sections 363, 366-A, 376, 376(3), 376(2)(N) of IPC and 3/4, 5(L)/6 of POCSO Act and Section 3(2)(v), 3(1)(W)(ii) of SC/ST Act.

2. As per prosecution story, on 27.3.2023 father of prosecutrix lodged

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an FIR at police Station Pachor by stating that her minor daughter/prosecutrix is missing from home. They tried to search her everywhere but could not find her. During investigation it has been gathered that present applicant abducted prosecutrix took her to Indore and repeatedly committed rape upon her. Accordingly, offence has been registered against the applicant.

3. Learned counsel for the applicant submits that the applicant is an innocent person and he has been falsely implicated in this offence. He is in custody since 29.4.2023. Prosecutrix (PW-1) her parents (PW-2 & PW-3) and her uncle (PW-4) have been examined before the trial court and all of them have turned hostile and not supported the case of prosecution. The prosecutrix was major at the time of incident. Applicant is a young person of 21 years. Applicant is permanent resident of Dewas district. Final conclusion of the trial is likely to take sufficient long time. Under the above circumstances, prayer for grant of bail may be considered on such terms and conditions, as this Court deems fit and proper.

4 Per contra, learned counsel for the respondent / State opposes the bail application and prays for its rejection by submitting that FSL report supports the case of prosecution.

5. Counsel for prosecutrix/respondent no.2 submits that prosecutrix and her parents have no objection if bail is granted to applicant.

6. Perused the impugned order of the trial Court as well as the case diary.

7. After considering all the facts and circumstances of the case, nature and gravity of offence, arguments advanced by the learned counsel for the applicant and also taking note of the fact that although prosecutrix (PW-1) in her examination in chief deposed against the applicant regarding commission of offence, but during cross-examination she categorically stated that present

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applicant neither abducted her nor committed rape upon her, her parents and uncle also corroborated the same fact and all of them have turned hostile and they have not supported the case of prosecution, parents of prosecutrix have filed their affidavit regarding no objection if bail is granted to applicant, I deem it proper to release the applicant on bail. Therefore, without commenting on the merits of the case, the application is allowed.

8. It is directed that applicant be released on bail on his furnishing personal bond in the sum of Rs.75,000/- (Rupees Seventy Five Thousand Only) with one solvent surety in the like amount to the satisfaction of the trial Court for his appearance before the trial Court, as and when required. He shall abide by all the conditions enumerated under Section 437(3) Cr.P.C.

Certified copy as per rules.

(ANIL VERMA)
JUDGE

BDJ

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