IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRAKASH CHANDRA GUPTA

ON THE 5th OF FEBRUARY, 2024

MISC. CRIMINAL CASE No. 51403 of 2023

BETWEEN:-

NITESH @ RITESH S/O BHARAT VASUNIYA, AGED 20 YEARS, OCCUPATION: AGRICULTURE LABOR R/O VILLAGE BADGAWA P.S. BHATPACHLANA DISTT. UJJAIN (MADHYA PRADESH)

.....APPLICANT

(BY SHRI NILESH DAVE - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THROUGH POLICE STATION BILPANK DIST. RATLAM (MADHYA PRADESH)

.....RESPONDENT/STATE

(BY SHRI HEMANT SHARMA - GOVT. ADVOCATE)
(NONE PRESENT FOR THE PROSECUTRIX, THOUGH SERVED)

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

ORDER

Heard with the aid of case diary.

This is first application filed under Section 439 of Cr.P.C. for grant of bail to the applicant/accused, relating to FIR/Crime No.94/2023 dated (not mentioned) registered at Police Station - Bilpank, District Ratlam (M.P.) for commission of offence punishable under Sections 363, 366 and 376(2)(n) of IPC and under Section 5(L)/6 of the Protection of Children from Sexual Offences Act.

2. Prosecution story, in brief, is that at the time of the incident, the

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prosecutrix was aged around more than 17 years. On 28.02.2023, the applicant gave false pretext to marry the prosecutrix. Thereafter, the prosecutrix left her home and went to Gujarat, thereafter Ujjain alongwith the applicant. Both of them, lived in Ujjain for 01 month and 22 days. Meanwhile, he committed rape upon her several times.

3. Learned counsel for the applicant submits that applicant has not committed the offence and he has falsely been implicated in the case. It is also submitted that at the time of the incident, the prosecutrix was more than 18 years of age, but her actual date of birth is not mentioned in the scholar register. She was a consenting party for going alongwith applicant and she was also a consenting party for sexual intercourse. The applicant is in custody since 20.04.2023.

4. It is also submitted that prosecutrix (PW-1) has been examined before the trial Court and as per false statement, it is clear that she was a consenting party. After completion of investigation, charge-sheet has been filed. Conclusion of trial will take sufficient long time for its disposal therefore, prayer is made for grant of bail to the applicant.

5. It is further submitted that the applicant is in custody since 19.03.2023. After completion of investigation, charge-sheet has been filed. Conclusion of trial will take sufficient long time for its disposal therefore, prayer is made for grant of bail to the applicant.

6. On the other hand, counsel for the State has opposed the prayer and prayed for its rejection.

7. Having considered the rival submissions and after perusal of the case diary so also considering the facts and circumstances of the case and custody period of the applicant, without commenting on the merits of the case, this

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Court is of the view that applicant deserves to be enlarged on bail hence, the application is **allowed**.

8. It is directed that the **applicant - Nilesh @ Ritesh** shall be released on bail upon his furnishing 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 concerned trial Court for his appearance before the trial Court on all such dates as may be fixed in this behalf by the trial Court during pendency of the trial. It is further directed that applicant shall comply with the provisions of Section 437(3) of Criminal Procedure Code, 1973.

9. This order shall be effective till the end of trial but in case of bail jump, it shall become ineffective.

10. With the aforesaid, this application is allowed and stands disposed of.

Certified copy, as per Rules.

(PRAKASH CHANDRA GUPTA)
JUDGE

Shruti

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