

MCRC No.1562/2014

28.2.2014

Shri A.K. Saraswat, learned counsel for the applicant.

Shri Manish Joshi, learned counsel for the respondent/State.

Heard on the question of grant of bail.

This is an application made by the applicant (accused) under Section 439 Cr.P.C. for grant of bail during trial.

Notice of this application was served on the State counsel. Case diary as per the direction of this Court has been produced and it has been perused.

The applicant is facing trial for offence punishable under Section 363, 366, 376 of the IPC and Section 3, 4 of Protection of Children from Sexual Offences Act, 2012 registered with Police Station Manasa, in Crime No.279/2013.

Learned counsel appearing for the applicant submits that the prosecutrix had stayed with the applicant from 25.7.2013 to 6.8.2013, till she was recovered by the police. He has further submitted that it is a clear case of consent. Referring to the statement of the prosecutrix recorded under Section 164 of the Cr.P.C., he has submitted that the prosecutrix had travelled with the applicant to Mandsaur, Ratlam, Indore and Rajgarh and had also used the public

mode of transport, such as train and bus and during this period she had all the opportunity to register the complaint against the present applicant. He has further submitted that the applicant is in custody since 6.8.2013 and the conclusion of the trial is likely to take considerable time.

In reply, learned counsel for the State has opposed the application for grant of bail.

On perusal of the case diary and considering the circumstances of the case, I find *prima facie* force in the submissions made by the counsel for applicant. Hence I am of the considered view that the application for grant of bail deserves to be allowed and is accordingly allowed.

The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs.35,000/- (Rs. Thirty Five Thousand) with one surety in the like amount to the satisfaction of the Trial Court for his appearance as and when directed.

The applicant will attend each hearing of his trial before the Trial Court out of which this bail arises. Any default in attendance in Court would result in cancellation of the bail granted by this Court.

Certified copy as per rules.

**(Prakash Shrivastava)
Judge**