

M.Cr.C. Nos.10440/2014

29.12.2014

Shri Bhaskar Agrawal, learned counsel for the applicant.

Shri RS Bais, learned Dy. GA for the respondent /State.

Case diary is available.

This is first bail applications filed by the applicant under section 439 of the Code of Criminal Procedure for grant of bail.

The accused/applicant was arrested by the Police Station – Satwas District – Dewas in Crime No.282/2014 under sections 376(1), 376(D) and 506 of IPC and under section 3(2)(V) and 3(1)(XII) of SC/ST (Prevention of Atrocities) Act.

According to the prosecution, the prosecutrix came to Indore and was under treatment of the co-accused Dr. Sameed Khan. According to her, after her treatment at the hospital, the applicant took her in the vehicle, which was driven by the co-accused Shafik Khan in which the other co-accused Sameed Khan and the present applicant were also present. While on the way, they stopped the vehicle near Palasia and committed rape on her.

Learned Dy.GA opposes the bail application.

Arguments heard, case diary perused.

Learned counsel for the applicant argues that there is a difference in her statements made under section 161 of Cr.P.C. and under section 164 of Cr.P.C. In her statement under section 164 of Cr.P.C., there is no mention of gang rape and she only stated regarding dispute of payment of charges for her

treatment at the hospital and that to by the wife of the co-accused Sameed Khan. He further argues that the charge-sheet has already been filed and his presence is not required.

After going through the case diary and taking into consideration the all the facts and circumstances of the case, without commenting on the merits of the case, I am of the view that it is a fit case for grant of bail. The application filed under section 439 of the Cr.P.C. is allowed.

It is directed that the applicant – Ayub Khan Son of Gulab Khan shall be released on bail on his furnishing a personal bond of **Rs.50,000/- (Rs. Fifty Thousand Only)** and one solvent surety of the like amount to the satisfaction of the concerned Magistrate for his appearance on all the dates of hearing as may be directed in this regard during trial.

He is further directed that on being so released on bail, he would comply with the conditions enumerated under section 437(3) Cr.P.C. meticulously.

Certified copy as per rules.

**(Alok Verma)
Vacation Judge**

Kratika/