

M.Cr.C. No.8435/2015

29.05.2015

Shri Sushil Kumar Tiwari, learned counsel for the applicant.

Smt. D.K. Bohre, learned Government Advocate for the non-applicant/State.

Heard arguments.

Perused case diary and material on record.

This is first bail application filed by the applicant under Section 439 of the Cr.P.C. in connection with Sessions Trial No.50/2015 State of M.P. through Police Station Slimnabad, District Katni Vs. Lalji Kol, arising out of Crime No.60/2015 of the aforesaid police station, pending on the file of Second Additional Sessions Judge, Katni. As per the impugned bail order dated 16.05.2015 passed in the aforesaid Sessions Case, the applicant is facing trial under Section 376 of the I.P.C.

Prosecution allegations are that on 13.03.2015 in village Salhemar the applicant committed rape upon the prosecutrix in her agricultural field while she was mowing grass.

Learned counsel for the applicant submits that the applicant is in custody since 11.03.2015. It is also submitted by him that the trial Court recorded the evidence of the prosecutrix (PW-1), her husband Sarju (PW-2), in-laws Rajendra (PW-3) and Phool Bai (PW-4) respectively. All the aforesaid witnesses have been declared hostile by the prosecution. Upon these submissions, a prayer is made for grant of bail.

Learned Government Advocate opposes the prayer. However, she has frankly admitted that the aforesaid

witnesses turned hostile and there is no evidence worth the name on record in connection with alleged offence against the applicant.

On due consideration of the facts and circumstances of the case, the submissions raised on behalf of the parties by their counsel and perusal of the certified copies of the depositions of the aforesaid prosecution witnesses, but without expressing any opinion on merits of the case, I am of the view that it is a fit case for grant of bail. Hence, the application is allowed. It is ordered that applicant **Lalji Kol** be released on bail on his furnishing a personal bond in the sum of **Rs.25,000/- (rupees twenty five thousand only)** with one solvent surety of the same amount to the satisfaction of the trial Court for his appearance on all such dates as may be fixed by it in this regard. He shall abide by the conditions enumerated in Section 437(3) of the Cr.P.C. In case of bail jump, the court concerned will have power to cancel the applicant's bail.

Certified copy as per rules.

(RAJENDRA MAHAJAN)
V. JUDGE

ac/-