

M.Cr.C. No. 4933 Of 2016

30.06.2016

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

Ms. Mamta Shandilya, learned Dy. GA for the respondent/State.

This is first application under Section 439 of Cr.P.C. The applicant has been arrested in Crime No.291/2016 registered at Police Station, Jhabua, District Jhabua, for the offence punishable under Sections 363, 366 (A) & 376 of the IPC and Section 3/4 of POSCO Act.

As per prosecution case, complainant has lodged the report that his daughter has gone missing. During investigation, daughter of the complainant was recovered, her statement was recorded, wherein she disclosed that her parents were quarelling and she went to call her grand father. When she was coming back, Karma Dharu and Bharu and Babu met her. They forcibly took her to Village Kalapipal where Karmu committed sexual intercourse with her against her will. Thereafter, brought her to Tikdi Village kept there for 10 days and committed sexual intercourse with her. Thereafter he brought her to Charolipada. Applicant has also threatened her. In the statement recorded under Section 164 of the Cr.P.C., she has changed the entire story and stated that her father has beaten her then she went with the villagers. When she came to know that her father has lodged the report, then she came back. No one has committed any wrong with her.

It is submitted by learned counsel for the applicant that applicant has not committed any offence. He has falsely been implicated. In the statement recorded under Section 164 of the Cr.P.C. no allegation has been made against the applicant. Applicant is under custody since 07/05/16. Charge-sheet has been filed. Conclusion of trial likely to take time, hence prayed for bail.

The prayer is opposed by learned Dy. GA for the respondent/State.

Case-diary perused.

As per the progress report, the date of birth of the victim has been mentioned as 04/11/2000. In the medical report, no external as well as internal injury has been caused to the victim on her private part. No definite opinion has been given regarding sexual intercourse. In the case-dairy statement, victim has made allegation against the applicant, but in the statement recorded under Section 164 of the Cr.P.C., she has not made any allegation against the applicant.

Taking into consideration the statement of the victim recorded under Section 164 of the Cr.P.C. and the facts and circumstances of the case, but without commenting anything on the merits of the case, the application is allowed. It is directed that the applicant shall be released on bail on 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 **Trial Court.**

This order will remain operative subject to compliance of the following conditions by the applicant :-

The applicant will comply with all the terms and conditions of the bond executed by him;

The applicant will cooperate in the investigation/trial, as the case may be;

The applicant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to the Police Officer, as the case may be;

The applicant shall not commit an offence similar to the offence of which he is accused;

The applicant will not seek unnecessary adjournments during the trial; and

The applicants will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

A copy of this order be sent to the Court concerned for compliance.

C.c. as per rules.

(D.K.Paliwal)
Judge

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