

The High Court Of Madhya Pradesh**CRA-1929-2019***(KAYYUM Vs THE STATE OF MADHYA PRADESH)***Jabalpur, Dated : 29-03-2019**

Shri K.S. Rajput, learned counsel for the appellant.

Shri Mahendra Choubey, learned G.A. for the respondent No.1/State.

Case diary perused and arguments heard.

This first criminal appeal has been filed under Section 14 (A) of SC/ST (Prevention of Atrocities) Act 1989 against the order dated 21/02/2019 passed by Special Judge, SC/ST (Prevention of Atrocities) Act, Khandwa in Bail Application No. 29/2019, whereby learned Special Judge rejected the bail application filed by appellant under Section 439 of Cr.P.C. to get bail in Crime No.29/2019 registered at Police Station Khalwa, district Khandwa for the offence punishable under Sections 366, 376 of IPC and Section 3(2)(v) of the SC/ST (Prevention of Atrocities) Act.

As per prosecution case on 26/01/2019 the applicant abducted the prosecutrix and took her to Indore on the pretext of marriage, where he kept her in his relative house and committed rape with her. The Police registered Crime No.29/2019 for the offence punishable under Sections 366, 376 of IPC and Section 3(2)(v) of the SC/ST (Prevention of Atrocities) Act and investigated the matter. During investigation on 30/01/2019, Police arrested the appellant. On that appellant filed application under Section 439 of Cr.P.C. for releasing him on bail, which was rejected by the learned Special Judge, SC/ST (Prevention of Atrocities) Act, Khandwa, vide order dated 21/02/2019 in Bail Application No.29/2019. Being aggrieved from that order appellant has preferred this appeal.

Learned counsel for the appellant submitted that the appellant is innocent and has falsely been implicated in this matter. The prosecutrix was major and went with the applicant on her own will. The appellant is in custody since 30/01/2019 and conclusion of trial will take time, so appellant be released on bail.

Learned counsel for the State opposed the prayer and submitted that the applicant abducted the prosecutrix and committed rape with her on the pretext of marriage, so he should not be released on bail.

Looking to the facts and circumstances of the case and keeping in view that the prosecutrix was major on the date of incident, so as to the fact that the appellant is in custody since 30/01/2019 and conclusion of trial will take considerable time, without commenting on merit the appeal is allowed. It is directed that the appellant 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 Trial Court.

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

1. The appellant will comply with all the terms and conditions of the bond executed by him;
2. The appellant will cooperate in the trial;
3. The appellant will not indulge himself in extending inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The appellant shall not commit an offence similar to the offence of which he is accused;
5. The appellant will not seek unnecessary adjournments during the trial; and
6. The appellant will not leave India without previous permission of the trial Court.

Accordingly, appeal is disposed of.

C.C. as per rules.

(RAJEEV KUMAR DUBEY)
JUDGE

