

HIGH COURT OF MADHYA PRADESH
BENCH AT INDORE

MCRC-2133-2020

(NAUSHAD @ VIRAJ Vs THE STATE OF MADHYA PRADESH)

Indore, Dated : 31-01-2020

Shri Bhaskar Agrawal, Advocate for the applicant.

Shri Gourav Verma, Public Prosecutor for the respondent/State.

Heard. Case diary perused.

This is first bail application under Section 439 of the Cr.P.C., for grant of bail in connection with Crime No.464/2019 registered at Police Station- Khargone for commission of the offence punishable under Sections 366, 376 (2) (N), 328 & 506 of I.P.C.

As per prosecution case, on 04.09.2019 prosecutrix lodged a report against the present applicant alleging that she got married about one and half years prior to the alleged incident and thereafter, she took a divorce and started residing at Khargone and works at one *Jhamjham Bakery Islampura* Khargone where she met with the present applicant, who also used to work there. Thereafter, relationship between the prosecutrix and the applicant were blossomed and they started residing together and during that period applicant and the prosecutrix indulged themselves in sexual relations. It is also alleged that applicant used to promise with the prosecutrix for marriage but, one day he fled away. On 28.08.2019 applicant visited the house of the prosecutrix at about 1:30 am and threatened her to gulp down some medicine and due to fear she had a bit of the said medicine and thereafter, applicant snatched the bottle and ran away from the spot. Accordingly, case has been registered against the applicant.

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Learned counsel for the applicant submits that applicant is a youth aged about 21 years and he has falsely been implicated in the present crime. He has not having any criminal record. It is further submits that prosecutrix is a major lady aged about 32 years. According to the material available in the charge-sheet, prosecutrix was admitted in the hospital on 29.08.2019, but she did not disclose the name or overt act of the applicant. She has also not given any statement that the applicant has administered piousness substance. She was discharged from the hospital on 30.08.2019 and till then she has not lodged any complainant against the applicant. First time on 04.09.2019 she lodged the FIR against the applicant. However, no explanation offered by the prosecution regarding delay in lodging the FIR. It is further submitted that the allegation made by the prosecutrix against the applicant also does not corroborate with the MLC as well as FSL report. From the statement of the prosecutrix and other witnesses, it appears that she made physical relation with the applicant on her own will, therefore, she was the consenting party. The applicant is in custody since 29.12.2019. Investigation is complete and challan has been filed. The trial is likely to take a long time in its conclusion. Therefore, counsel prays for grant of bail to the applicant.

Learned Public Prosecutor opposes the bail application and prays for dismissal of the same.

Considering the facts and circumstances of the case and the arguments advanced by learned counsel for the applicant, but without commenting on the merits of the case, the application filed by the applicant is allowed. The applicant is directed to be released on bail on his furnishing a personal

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bond in the sum of Rs.75,000/-(Rupees Seventy Five Thousand only) with one solvent surety of the like amount to the satisfaction of trial Court, for his regular appearance before the trial Court during trial with a condition that he shall remain present before the Court concerned during trial and shall also abide by the conditions enumerated under Section 437 (3) of Cr.P.C.

This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Certified copy, as per rules.

(S. K. AWASTHI)
JUDGE

JYOTI

Digitally signed by Jyoti
Chourasia
Date: 2020.02.01 11:35:26 +05'30'