

M.Cr.C. No.21934/2020

Shivpal Vs. State of M.P.

THE HIGH COURT OF MADHYA PRADESH

M.Cr.C. No.21934/2020

Indore, dated :31/07/2020

Shri Manish Yadav, learned counsel for the applicant.

Shri Ram Shastri, learned Panel Lawyer for the respondent No.1/State.

None for the respondent No.2/complainant.

Heard. Case diary perused.

This is first application under Section 439, Cr.P.C. for grant of bail in connection with Crime No.39/2020, registered at Police Station-Nalkheda, District-Ujjain for commission of the offence under Sections 363, 376(d), 376(2)(i), 376(2)(k), 376(d)(i), 376(3) and 328 of the IPC alongwith Sections 3/4 and 5(g)(h)(m) of the Protection of Children from the Sexual Offences Act, 2012

As per prosecution story, on 24/02/2020, complainant-Shivraj lodged a missing report of his daughter. During investigation the prosecutrix was recovered and she disclosed that co-accused-Lal Singh has committed rape upon her in the presence of present applicant and other co-accused persons.

Learned counsel for the applicant has submitted that the applicant is not named in the FIR nor in the first statement of the prosecutrix recorded under Section 164 of the Cr.P.C on 26/02/2020. It is also submitted that first time on 19/03/2020, in her second statement recorded under Section 164 of the Cr.P.C., the prosecutrix, disclosed the name of the applicant, however, from the first portion of the said statement, it is clear that she does not know the applicant prior to the alleged incident. It is further submitted that after the arrest of the applicant, police has

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not conducted any test identification parade, therefore, it cannot be said that the applicant is the person, who was present at the time of alleged incident with main-accused-Lal Singh, while he committed rape with the prosecutrix. The applicant is in custody since 19/05/2020. Investigation is over and charge-sheet has been filed. Conclusion of trial will take considerable time. Under these circumstances, learned counsel for the applicant prays for grant of bail to the applicant.

Learned Panel Lawyer for the respondent No.1/State submits that no sufficient ground is made out for releasing the applicant on bail, hence the application filed by the applicant be dismissed.

Considering the facts and circumstances of the case and the arguments advanced by learned counsel for the parties, 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 bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand only)** with one solvent surety of the like amount to the satisfaction of the 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) Cr.P.C.

In case of bail jump this order shall become ineffective.

Certified copy as per rules.

skt

(S.K. Awasthi)
Judge

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