

The High Court Of Madhya Pradesh

CRA-5476-2020

(DILIP KANNOUJE Vs THE STATE OF MADHYA PRADESH AND OTHERS)

Jabalpur, Dated : 27-11-2020

Heard through Video Conferencing.

Mr. Pradeep Kumar Naveriya, learned counsel for the appellant.

Mr. D.K.Khare, learned Panel Lawyer for the respondent-State.

Counsel for the State submits that the case diary is available with him.

This is the first appeal filed under Section 14-A of the S.C./S.T (Prevention of Atrocities) Act against the impugned order dated 08.10.2020 passed by the Special Judge (Atrocities), District Betul, whereby the court below has dismissed the application filed by the appellant under Section 439 of the Cr.P.C.

The appellant is in custody since 01.10.2020 in connection with Crime No.371/2019 registered by Police Station Chicholi, District-Betul for having committed offence under Sections 363, 366, 376(2)(n) of IPC, Section 5/6 of POCSO Act and Section 3(1)(w)(ii), 3(2)(v) and 3(2)(v-a) of SC/ST (POA) Act.

Learned counsel for the appellant has submitted that the appellant is innocent and has been falsely implicated. The appellant is in jail since 01.10.2020. The Trial will take a long time to conclude. The appellant is permanent resident of the district and there is no likelihood of his absconding or tampering with the prosecution case. On these grounds prayer is made to enlarge the appellant on bail.

Learned counsel appearing on behalf of the State has opposed the appeal and prayed for it's rejection.

Heard learned counsel for the parties and perused the documents available in the PDF file. From the material available on record, it is seen that at the time of incident, the prosecutrix was minor but at present she is major and has got married with the present appellant and out of their wedlock, a male child is also born.

Considering the peculiar facts and circumstances of the case, without expressing any opinion on the merits of the matter, this appeal is allowed. It is ordered that the **appellant- Dilip Kannouje** be released on bail on furnishing a personal bond for the sum of **Rs.50,000/- (Rupees Fifty Thousand Only)** with a solvent surety in the like amount to the satisfaction of the trial court for securing his presence before the said Court on all the dates of hearing fixed in this regard during trial.

The prison authorities are also requested to ensure compliance with the order passed by the Supreme Court in *Suo Moto Writ Petition(C) No. 1/2020* and ensure, that the Appellant is examined by the jail doctor before his release. If the Appellant shows symptoms of COVID 19, the doctor shall forthwith direct him to be produced before the appropriate hospital designated for the detection and treatment of COVID 19 patients. If the doctor is of the opinion that the Appellant is not affected with the virus, the jail authorities shall ensure his transportation from the jail till his place of residence.

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;
- (4) The appellant shall not commit any offence during the entire period of bail;
- (5) The appellant will not seek unnecessary adjournments during the trial;
- (6) The appellant will not leave India without previous permission of the trial Court;

(7) The appellant shall inform the Investigating Officer/Court about his/her address and residence in case the applicant moves out from his/her permanent address for any point of time; and

(8) The appellant shall not contact any of the other accused persons in this case in any manner whatsoever.

This order shall remain effective till the end of the trial but in case of bail jump and breach of any of the pre-condition of bail, it shall become ineffective and cancelled without reference to this Bench.

Certified copy as per rules.

(AKHIL KUMAR SRIVASTAVA)
JUDGE

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