

HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE

M. Cr. C. No. 21887 /2021
(Ajay @Kanha Vs. State of M. P.)

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Indore, dated 31/5/2021

Heard through video conferencing

Mr. S.Khan learned counsel for the applicant.

Mr.Prabal Bhargav learned Panel Lawyer for the respondent / State.

This is first application under Section 439 of Cr.P.C. for grant of bail. Applicant Ajay is implicated in Crime No.40/2021 registered at Police Station – Namli District Ratlam for the offence punishable under Sections 365, 343, 376(2)(n), 506 of IPC. The applicant is in custody since 3.2.2021.

As per prosecution story, on 13.1.2021 at around 3 a.m. in the night the prosecutrix came out of her house to answer call of nature and that point of time the accused who is neighbour came and told her that she loves her and told her to accompany him. The prosecutrix refused but the applicant gave her threat of life and took her on motorcycle towards Mandsaur. She was kept in a room and was subjected to sexual intercourse. Next day the applicant took her to Rajasthan at Sanwaraji and put her up in a Dharamshala and again committed rape with her. Thereafter the prosecutrix somehow took a bus and came to Namali and at bus stand she could meet her relative from where she came back to her matrimonial house and lodged the report.

Learned counsel for applicant submits that the charge sheet has been filed, that it is a matter of consent between the prosecutrix and applicant. He has drawn court's attention to report of Sarpanch village Panchayat Sikhodi which is placed on record in which it has

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been mentioned that lavatory and bathroom has been constructed inside the premises of the house of prosecutrix and there is boundary around and there is no door on the north side for entering or coming out of that place. He submits that contrary to submission of prosecutrix, the applicant could not have entered the premises by himself. He submits that prosecutrix did not cry aloud when she was being taken away from her house. He further submits that prosecutrix was not threatened on the point of some weapon so as to cause threat in the mind of prosecutrix. He submits that prosecutrix was taken to different places as alleged on motorcycle but she did not try to raise any alarm or try to escape which itself shows that she was a consenting party. On these grounds bail has been sought.

Learned Panel Advocate appearing for the respondent/State opposes the bail application.

Considered.

In view of the submissions made by counsel for the parties, a case is made out for grant of bail and therefore, without commenting upon the merits of the case, this bail application is being allowed and it is directed that the applicant be released on bail subject to his furnishing a 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 the concerned Committal Court/Trial Court for his regular appearance before Committal Court/Trial Court on all dates of hearing as may be fixed in this behalf by the Court concerned during trial. It is also directed that the applicant shall abide by all the conditions

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enumerated under Section 437(3) of the Cr.P.C. It is made clear that after being released on bail, the applicant shall not cause any threat or promise or try to influence the prosecutrix.

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

Certified copy as per rules.

(SHAIENDRA SHUKLA)
J U D G E

BDJ

Digitally signed by
BHUVNESHWAR DATT JOSHI
Date: 2021.06.01 03:42:22
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