

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE**

HON'BLE SHRI JUSTICE ANIL VERMA

ON THE 30th OF SEPTEMBER, 2022

MISC. CRIMINAL CASE No. 46650 of 2022

BETWEEN:-

**MANOHAR S/O KANWARLAL
MALI, AGED ABOUT 55
YEARS, OCCUPATION –
AGRICULTURIST, R/O
PHULMALIPURA, PS AGAR,
DISTT AGAR MALWA
(MADHYA PRADESH)**

.....APPLICANT

***(MR. GOURAV SHRIVASTAVA, LEARNED COUNSEL FOR THE
APPLICANT)***

AND

- 1. THE STATE OF MADHYA
PRADESH STATION HOUSE
OFFICER THROUGH PS
AGAR, DISTT. AGAR MALWA
(MADHYA PRADESH)**
- 2. VICTIM X THROUGH POLICE
STATION AGAR MALWA
MAHILA THANA, DISTRICT
AGAR MALWA (MADHYA
PRADESH)**

.....RESPONDENTS

***(MR. YASHPAL SINGH SISODIYA, LEARNED COUNSEL FOR THE
OBJECTOR; AND***

***MS. NISHA JAISWAL, LEARNED PL APPEARED FOR
RESPONDENT / STATE)***

*This application coming on for hearing this day, the court
passed the following:*

O R D E R

This is the **first** anticipatory bail application filed under Section 438 of the Code of Criminal Procedure, 1973. The applicant is apprehending his arrest in connection with Crime No.72/2022 registered at Police Station – Mahila Thana, District Agar Malwa (M.P.) for commission of offence punishable under Section 376, 376(2)(f), 376(2)(h), 450, 506, 327, 294 and 190/34 of the Indian Penal Code, 1860.

As per the prosecution story, on 09/07/2022 when the prosecutrix was alone in her home, her uncle-in-law (*kaka sasur*) entered in her house and room from terrace and committed rape upon her and threatened her not to tell anyone about the incident. After 4-5 days nephew of the prosecutrix said to her that he has shot her video and will leak viral the same if she will not pay him Rs.50,000/-. This incident was narrated by prosecutrix to her husband and father-in-law and mother-in-law but they did not report or lodge any FIR. Thereafter, on 04/08/2022 for Rakhi occasion, Kaka Sasur dropped her at her maternal home and threatened her not to complain. Thereafter, on 23/08/2022, when father of the prosecutrix asked her for her paternal home, she narrated the

incident to her father, thereafter, her father and other relatives went to Mahila Thana and lodged the FIR. Accordingly, a case has been registered against the present applicant.

Learned counsel for the applicant contended that applicant is innocent and has been falsely implicated in this offence. There is no legal evidence available on record to connect the applicant with the aforementioned offence. Prosecutrix is a major lady. FIR is 45 days belated. Prosecutrix herself is present in the Court and submitted an affidavit stating that she has lodged the FIR against the applicant under the pressure of her family members and she has no objection if bail is given to the present applicant. Co-accused Gopal and Ashok have also been enlarged on bail by the trial Court. Applicant is the permanent resident of Agar Malwa district and final conclusion of trial shall take sufficient long time. Under the above circumstances, prayer for grant of anticipatory bail may be considered on such terms and conditions, as this Court deems fit and proper.

Counsel for the objector / prosecutrix submitted that the prosecutrix has already filed an affidavit in support of the bail application stating that she has no objection regarding anticipatory bail to the present applicant.

Per-contra, learned counsel for the respondent – State opposes the bail application and prays for its rejection.

Perused the impugned order of the trial Court as well as the

case dairy.

Considering all the facts and circumstances of the case, arguments advanced by both the parties, nature of allegation and also taking note of the fact that prosecutrix is a major lady; FIR is 45 days belated; prosecutrix herself stated on affidavit that present applicant has not committed any rape upon her and she has no objection regarding anticipatory bail to the applicant and possibility of delay in conclusion of the trial cannot be ruled out. Therefore, without commenting upon the merits of the case, I deem it proper to release the applicant on anticipatory bail.

Accordingly, application is allowed. It is directed that in the event of applicant's arrest, the applicant be released on anticipatory bail on his furnishing personal bond in the sum of **Rs.75,000/- (Rupees Seventy Five Thousand Only)** with one surety in the like amount to the satisfaction of arresting officer for his appearance before the Investigating Officer during the course of investigation as and when directed. Conditions of Section 438(2) Cr.P.C. shall also apply on the applicant during currency of bail.

Certified copy as per rules.

(ANIL VERMA)
J U D G E

Tej

Signature Not Verified

Signed by: TEJ PRAKASH
VYAS
Signing time: 9/30/2022
6:29:29 PM