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

**BEFORE
HON'BLE SHRI JUSTICE PRANAY VERMA**

ON THE 31st OF OCTOBER, 2022

MISC. CRIMINAL CASE No. 48604 of 2022

BETWEEN:-

**KUMER SINGH S/O NARAYAN, AGED ABOUT 39
YEARS, OCCUPATION: LABOUR VILLAGE BILOD
PATLON TEHSIL AND DISTRICT SEHORE
(MADHYA PRADESH)**

.....PETITIONER

(BY MR CHARCHIT SHASTRI-ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH STATION
HOUSE OFFICER THROUGH POLICE STATION
NILGANGA DISTRICT UJJAIN (MADHYA
PRADESH)**

.....RESPONDENTS

(BY MS ARCHANA MAHESHWARI -GOVERNMENT ADVOCATE)

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

ORDER

1. They are heard. Perused the case diary /challan papers.
2. This is the First application under Section 439 of Criminal Procedure Code, 1973, as the applicant is implicated in connection with Crime No.204/2021 registered at Police Station Nilganga, District Ujjain (MP) for offence punishable under Sections 363, 366-A, 367 (2) (i), 376 (2) (n) of the IPC and Sections 3/4, 5(L)/6 of the POCSO Act.

3. The applicant is in custody since 28.08.2022.

4. As per the prosecution, on 13-04-2021 a complaint was lodged by

the father of the prosecutrix to the effect that the prosecutrix, a minor, is missing and cannot be traced out despite repeated efforts. On the complaint, a missing person report was registered and search for the prosecutrix was made and she was eventually recovered from the custody of co-accused Satish and upon recording of her statement to the effect that she had gone along with Satish and had developed physical relationship and stayed in the field of co-accused Arun Rathore in a hut constructed thereupon for a period of almost four months, the applicant has been implicated and arrested for the present offence on the allegation that he is the uncle of main accused Satish and had conspired with him in the entire incident.

5. Learned counsel for the applicant submits that the applicant is innocent and has falsely been implicated in the case. There is no allegation whatsoever against him by the prosecutrix in any of her statements. His implication is solely on the basis that he is the uncle of main accused Satish. There is no allegation against him in any manner of being involved in the act of abduction of the prosecutrix by co-accused Satish or him having committed rape upon her. It is hence submitted that in view of absence of material available against the applicant, he deserves to be enlarged on bail.

6. The aforesaid prayer has been opposed by the learned counsel for the respondent/State submitting that in view of the allegations leveled against the applicant and the material collected by the prosecution against him, he is not entitled to be released on bail.

7. I have heard learned counsel for the parties and have perused the case diary.

Signature Not Verified

Signed by: RASHMI
PRASHANT
Signing time: 01-Nov-22
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8. The allegation as regards abduction and committing rape upon the prosecutrix is on co-accused Satish and not upon the present applicant. The

only allegation against the applicant is that he is the uncle of the main accused Satish and had conspired with him in the entire incident. The applicant has not been named by the prosecutrix in any of her statements and there does not appear to be any direct allegations against him. Thus, in my opinion, in view of absence of material available against the applicant, he deserves to be released on bail.

9. Accordingly, 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 upon furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five 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) Criminal Procedure Code, 1973.

10. 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.

(PRANAY VERMA)
JUDGE

rashmi

Signature Not Verified

Signed by: RASHMI
PRASHANT
Signing time: 01-Nov-22
11:19:45 AM