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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE SATYENDRA KUMAR SINGH
ON THE 30th OF NOVEMBER, 2022
MISC. CRIMINAL CASE No. 53482 of 2022**

BETWEEN:-

**SHANKAR S/O SHREE SANTOSH CHOUHAN, AGED
ABOUT 19 YEARS, OCCUPATION: LABOUR
JATASHANKAR COLONY POLICE STATION KOTWALI
DAMOH DISTRICT DAMOH (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI GOURAV SHRIVASTAVA, ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH STATION
HOUSE OFFICER THROUGH POLICE STATION
PITHAMPUR SECTOR NO. 1 DISTRICT DHAR
(MADHYA PRADESH)**
- 2. VICTIM X THROUGH POLICE STATION
PITHAMPUR SECTOR NO.1, DISTRICT DHAR
(MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI KAPIL MAHANT, PANEL LAWYER)

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

ORDER

With the consent, heard finally.

Perused the case diary.

This is first application filed under Section 439 of Cr.P.C for grant of bail to the applicant, as he has been arrested on 30.08.2022 in connection with Crime No. 409/2022 registered at Police Station Pithampur, District Dhar (M.P.) for commission of offence punishable under Sections 363, 366, 368, 376,

376(2)(n), 376(2), 376(3) of IPC and Sec 3,4,5L and 6 of POCSO Act.

Prosecution story, in brief is that on applicant kidnapped/abducted minor prosecutrix aged about 14 years, kept her captivated for about 7-8 days and committed rape upon her repeatedly.

Learned counsel for the applicant submits that prosecutrix in her statement recorded during investigation u/S 164 of Cr.P.C. specifically deposed that she herself went to Pune where she lived with the applicant for 7-8 days. At the time of incident, prosecutrix was consenting party. Nothing has been produced on record except school scholar register entry about her age. School Scholar Register entry produced on record is of 5th standard. She was major at the time of incident as apparent from her MLC report. Moreso, applicant is a young boy aged about 19 years and is in custody since 03.08.2022. Investigation is complete and chargesheet has been filed. Trial will take time to conclude and therefore, in the aforesaid circumstances, applicant is entitled for grant of bail.

Learned Panel Lawyer for the non-applicant/State has opposed the application and submits that prosecutrix was minor at the time of incident. Offences alleged against the applicant are of serious in nature and therefore, he is not entitled for grant of regular bail.

Having considered the rival submissions, material produced on record, especially with regard to the age of prosecutrix, MLC report, her statement recorded u/S 164 of Cr.P.C., period of custody and also considering other facts and circumstances of the case, this Court is of the view that applicant deserves to be enlarged on bail, hence, without commenting anything on the merits of the case, the application is allowed.

It is directed that the applicant is directed to be released on bail upon his furnishing personal bond in the sum of **Rs.50,000/- (Rupees Fifty thousand only)** with a solvent surety in the like amount to the satisfaction of the concerned Court for his appearance before the Trial Court on all such dates as may be fixed in this behalf by the Trial Court during the pendency of trial. It is further directed that applicant shall comply with the provisions of Section 437 (3) of Cr. P. C.

In view of the outbreak of 'Corona Virus disease (COVID-19), the concerned Jail Authority is directed to follow the directions/guidelines issued by the Government with regard to COVID-19 before releasing the applicant.

This application is allowed and stands disposed of.

Certified copy, as per Rules.

(SATYENDRA KUMAR SINGH)
JUDGE

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