

HIGH COURT OF MADHYA PRADESH

M.Cr.C.No.45343/2018

Harcharan Rai Vs. State of Madhya Pradesh

Gwalior Bench: Dated: 16/11/2018

Shri Saket Udainiya, learned counsel for the applicant.

Shri RVS Ghuraiya, learned Public Prosecutor for the respondent/State.

With consent heard finally.

This is the second bail application under Section 439 of Cr.P.C. on behalf of the applicant. First application (M.Cr.C.No.38555/2018) has been dismissed as withdrawn on 10-10-2018. The applicant is in custody since 14-08-2018 in connection with Crime No.53/2018 registered at Police Station Basai District Datia for the offence punishable under Sections 376, 342, 506 of IPC.

It is submitted by learned counsel for the applicant that he has been falsely implicated in the case. Applicant is reputed citizen of the locality and no criminal antecedents is alleged against him. As per the story of prosecution and statement of prosecutrix she remained in the liquor shop with the applicant for three hours from 11pm to 2am itself raises doubt that how prosecutrix could have stayed under the influence and force of the applicant. Charge-sheet has already been filed and applicant is 22 years old boy and is confined since 14-08-2018. Applicant is ready to cooperate in the investigation and he will make himself available as and when required by the investigating officer. Confinement amounts to pretrial detention.

On the other hand, learned counsel for the State on the basis of case diary opposed the bail application and prayed for dismissal of bail application.

Heard the counsel for parties and perused the case diary.

Considering the submissions made by learned counsel for the parties as well as the fact that disposal of trial shall take time

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and detention of the applicant amounts to pretrial detention, without expressing any opinion on merits of the case, the application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant be released on bail on furnishing a personal bond in the sum of **Rs.50,000/- (Rs. Fifty Thousand Only)** with one solvent surety in the like amount to the satisfaction of the trial Court for his regular appearance before the trial Court on the condition that he shall remain present before the Court concerned during the trial.

This order will remain operative subject to compliance of the following conditions by the applicant:-

1. The applicant will comply with all the terms and conditions of the bond executed by him;
2. The applicant will cooperate in the investigation/trial, as the case may be;
3. The applicant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Police Officer, as the case may be.
4. The applicant will not commit an offence similar to the offence of which he is accused;
5. The applicant will not seek unnecessary adjournments during the trial; and
6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.
7. The applicant shall cause his appearance on every 1st and 15th day of every month before the trial Court besides the date fixed by the trial Court and would not move in the vicinity of the prosecutrix and would not try to influence the prosecutrix.

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

(Anand Pathak)
Judge

Anil*