

HIGH COURT OF MADHYA PRADESH

MCRC-46251-2020

(Shobharam Vs. State of M.P.)

Gwalior, Dated: 13/1/2021

Shri Faisal Ali Shah, learned counsel for the applicant.

Shri Indar Asthana, learned Panel Lawyer, for respondent/State.

Matter is heard through Video Conferencing.

I.A.No.21758/2020, an application for urgent hearing, is taken up, considered and allowed for the reasons mentioned therein.

This is the **Second** bail application u/S.439 Cr.P.C filed by the applicant for grant of bail.

The applicant has been arrested on 28/5/2020 in connection with Crime No.78/2018 registered at Police Station Dehat, Ganjbasoda District Vidisha(M.P.) for offence under Sections 363, 366, 376, 376(2)N, 376(D), 120-B of the IPC and Section 7/8, 5L/6, 5G/6 of the POCSO Act.

It is submitted by learned counsel for the applicant- **Shobharam** that this is the second bail application of the applicant. His earlier application was dismissed as withdrawn by this Court vide order dated 9/9/2020 passed in M.Cr.C. No.21963/2020. The applicant is in custody since 28/5/2020. There is no any allegation of committing rape against the present applicant. The prosecutrix has not made any allegation against the present applicant in the statement given under Section 164 of CrPC. It is further submitted that the

present applicant is not the main accused in the case. Now, investigation is complete and charge-sheet has been filed. Trial will take its own time. The applicant is ready to abide by all the terms and conditions that may be imposed by this court while considering the application for grant of bail. There is no possibility of his absconding or tampering with the prosecution case. Hence, prays for grant of bail. He further undertakes to abide by all the terms and conditions of guidance, circulars and directions issued by Central Government, State Government as well as Local Administration regarding measures in respect of COVID-19 Pandemic and maintain hygiene in the vicinity while keeping physical distancing.

Per contra, State Counsel has opposed the bail application and submitted that the case is registered under Sections 363, 366, 376, 376(2)N, 376(D), 120-B of the IPC and Section 7/8, 5L/6, 5G/6 of the POCSO Act which are heinous in nature. It is further submitted that the age of the prosecutrix is 17 years. Hence, prayed for dismissal of the bail application.

Heard learned counsel for the parties at length through Video Conferencing and considered the arguments advanced by them and perused the available case diary.

Considering the facts and circumstances of the present case, without commenting upon the merits of the case, the application is allowed and it is hereby directed that the applicant shall be released on bail on his furnishing personal bond of **Rs.1,00,000/- (Rupees One**

Lac only) with one solvent surety of the like amount to the satisfaction of the Court concerned for his regular appearance before the Court concerned on the dates fixed by the Court concerned.

In view of COVID-19 pandemic, the Jail Authorities are directed that before releasing the applicant, his Corona Virus test shall be conducted and if it is found negative, then the concerned local Administration shall make necessary arrangements for sending the applicant to his house, and if his test is found positive then the applicant shall be immediately sent to concerning hospital for his treatment as per medical norms. If the applicant is fit for release and if he is in a position to make his personal arrangements, then he shall be released only after following guidelines issued by local administration. After release, the applicant is further directed to strictly follow all the instructions which may be issued by the Central Government/State Government or Local Administration for combating the COVID-19. If it is found that the applicant has violated any of the instructions (whether general or specific) issued by the Central Government/State Government or Local Administration, then this order shall automatically lose its effect, and the Local Administration/Police Authorities shall immediately take him in custody and would send him to the same jail from where he was released.

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 them from disclosing such facts to the Court or to the Police Officer, as the case may be;
- 4. The applicant shall not commit an offence similar to the offence of which he is accused. In case of repetition of offence, this bail order shall automatically stand cancelled;**
5. The applicant will not move in the vicinity of complainant party and applicant will not seek unnecessary adjournments during the trial;
6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be; and
7. The applicant will inform the SHO of concerned Police Station about his residential address in the said area and it would be the duty of the State Counsel to send **E-copy** of this order to SHO of concerned Police Station for information.

Application stands allowed and disposed of.

E- copy of this order be sent to the trial Court concerned for compliance.

Certified copy/ e-copy as per rules/directions.

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(Rajeev Kumar Shrivastava)
Judge