

**THE HIGH COURT OF MADHYA PRADESH
M.Cr.C. No.37187/2021
Jitendra vs. State of MP**

Through Video Conferencing.

Gwalior, Dated : 05-08-2021

Shri M.C. Pathak, Counsel for the applicant.

Shri C.P. Singh, Counsel for the State.

Case diary is available.

This first application under Section 439 of Cr.P.C. has been filed for grant of bail.

The applicant has been arrested on 25.06.2021 in connection with Crime No.62/2021 registered at Police Station Ghatigaon Distt. Gwalior for offence under Section 376-D of IPC.

It is submitted by the Counsel for the applicant, that there is no allegation of rape against the applicant. The only allegation against the applicant is that he was the driver of the vehicle in which the offence of rape was committed.

Per contra, the application is vehemently opposed by the Counsel for the State. It is submitted that the rape was committed inside a car and thus, it cannot be said that the applicant was not having any *mensrea*. It is submitted that in order to make out an offence of gang-rape, it is not necessary that each and every accused must commit rape and if the accused persons were having *mensrea* for committing rape, then each and every accused would be liable for

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offence of gang-rape.

Considering the totality of facts and circumstances of the case,
no case is made out for grant of bail.

The application fails and is hereby **dismissed**.

(G.S. Ahluwalia)
Judge

Aman