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**THE HIGH COURT OF MADHYA PRADESH**  
**M.Cr.C. No.38501/2021**  
**Raju @ Rajeev vs. State of MP**  
**Through Video Conferencing.**

**Gwalior, Dated : 05-08-2021**

Shri Avadhesh Parashar, 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 23.10.2020 in connection with Crime No.676/2020 registered at Police Station Dehat Bhind Distt. Bhind for offence under Sections 376, 506, 450 of IPC and Section 3, 4 of POCSO Act.

It is submitted by counsel for the applicant that the prosecutrix has been examined and she has turned hostile and has not supported the prosecution case. However, it is fairly conceded that the copy of deposition sheet of the prosecutrix has not been placed on record.

Per contra, it is submitted by Counsel for the State that it is clear from the rejection order that the prosecutrix had supported the prosecution case in her examination-in-chief and thereafter her cross-examination was deferred and in the cross-examination, she has taken somersault. Thus, it is submitted that applicant was actively involved in winning over the witnesses.

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Heard learned counsel for the parties.

According to the prosecution case, on 18.10.2020 at about 3:00 pm, when prosecutrix was alone in her house, the applicant knocked the door and requested for water. When water was offered to him, he forcibly entered inside the house and committed rape. The age of the prosecutrix is less than 16 years. From the rejection order, it is clear that the prosecutrix had supported the prosecution case in the examination-in-chief but in the cross-examination conducted at a later stage, she took a somersault. Thus, in the light of judgment passed by the Supreme Court in case of **Khujji alias Surendra Tiwari Vs. State of M.P., (1991) 3 SCC 627**, it is for the trial Court to appreciate the evidence of the prosecutrix.

At this stage, no case is made out for grant of bail.

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

**(G.S. Ahluwalia)**  
**Judge**

Aman