

**THE HIGH COURT OF MADHYA PRADESH**  
**MCRC No.59561/2021**  
**Hemant Rawat vs. State of M.P. & Anr.**

**Gwalior, Dated :06/12/2021**

Shri R.K. Sharma, Senior Advocate with Shri V.K. Agrawal,  
Counsel for the applicant.

Shri C.P. Singh, Panel Lawyer for the respondent/State.

Case diary is available.

This second application under Section 439 of Cr.P.C. has been filed for grant of bail. The first application was dismissed by order dated 18.6.2021 passed in M.Cr.C.No.29844/2021.

The applicant has been arrested on 23.2.2021 in connection with Crime No.48/2021 registered at Police Station Berad, District Shivpuri for offence under Sections 363, 366-A, 376-D, 34 of IPC and under Section 3/4 of the POCSO Act.

It is submitted by the counsel for the applicant that this bail application has been filed mainly on the ground of delay. He has filed the order sheets of the Trial Court. As per the trial programme, 26 witnesses have been cited and at present only five witnesses have been examined so far and the next date fixed before the Trial Court is 10.12.2021. However, during the course of arguments, it was fairly conceded by the counsel for the applicant that the prosecutrix has been examined and she has supported the prosecution case.

*Per contra*, the application is vehemently opposed by the counsel for the respondent/State. It is submitted that there is no delay

**THE HIGH COURT OF MADHYA PRADESH**  
**MCRC No.59561/2021**  
**Hemant Rawat vs. State of M.P. & Anr.**

in the trial and the witnesses are regularly appearing and they are being examined.

Heard the learned counsel for the parties.

The applicant has filed the order sheets of the Trial Court starting from the date of filing of the trial programme. The applicant was arrested on 23.2.2021 whereas the trial programme was filed on 25.6.2021. On 25.6.2021, the summons to the witnesses were issued to the witnesses and the case was fixed for 11.8.2021. However it does not appear from the order sheet as to whether any summon was actually issued to the witnesses or not as it does not contain any endorsement by the Moharrir to the said effect. However, on 11.8.2021, it was mentioned that the summons issued to the witnesses have been received back unserved and, accordingly the case was taken up on 12.8.2021 and on 12.08.2021 it was directed that the prosecution must ensure the service of summons to the witnesses and the case was adjourned to 11.9.2021. On 11.9.2021, the summons were received back as served but the witnesses did not appear and, accordingly, theailable warrants of arrest were issued against the prosecutrix and her mother and the case was fixed for 22.10.2021. On 22.10.2021, the prosecutrix was examined and cross-examined. The examination-in-chief of the mother of the prosecutrix was also recorded but as the Court working hours were over, therefore, her

**THE HIGH COURT OF MADHYA PRADESH**  
**MCRC No.59561/2021**  
**Hemant Rawat vs. State of M.P. & Anr.**

cross-examination was deferred and the case was taken up on 23.10.2021. On 23.10.2021, the mother of the prosecutrix was cross-examined and the summons were issued to Nabab, Dr. Kajal, Krishna, Dr. Harish Arya and the case was fixed for 15.11.2021. On 15.11.2021, the prosecution witness Baijnath Jatav was present and the examination-in-chief was recorded but the defence counsel was not present, and accordingly, he was informed on his mobile but he did not appear and, therefore, the Trial Court directed for calling the case after sometime. The case was called at 12:00 PM and the counsel for the applicant appeared through VC and expressed that he does not wish to cross-examine the prosecution witnesses Baijnath Jatav and, therefore, the right of the applicant to cross-examine the prosecution witness Baijnath Jatav (PW-3) was closed. Since another prosecution witness Nabab Singh was not present, therefore, bailable warrants of arrest was issued and the case was fixed for 3.12.2021. Later on, the prosecution witness Nabab Singh also appeared but by that time the reference had already taken place, therefore, he was not examined and he was bound over for the next date. It is submitted by learned Senior Counsel that as per the instructions given by the pairokar of the applicant, the father and brother of the prosecutrix have also been examined on 3.12.2021 and they have also supported the prosecution case and now the next date for hearing before the Trial Court on

**THE HIGH COURT OF MADHYA PRADESH**  
**MCRC No.59561/2021**  
**Hemant Rawat vs. State of M.P. & Anr.**

10.12.2021.

From the order sheets of the Trial Court it appears that the Trial is progressing at a swift pace and the witnesses are regularly appearing and they are being examined and cross-examined.

In view of the fact that the prosecutrix has supported the prosecution case and the allegations against the applicant are that the applicant had committed rape on the prosecutrix in a running bus apart from kidnapping her, and the first bail application of the applicant has already been dismissed on merits by order dated 18.6.2021 passed in M.Cr.C.No.29844/2021, no case is made out for grant of bail.

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

(alok)

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