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**THE HIGH COURT OF MADHYA PRADESH**  
**MCRC-12399-2022**  
**Raman Vs. State of MP**

**Gwalior, Dated : 21/03/2022**

Shri Jitendra Kumar Tyagi, Counsel for the applicant.

Shri P.P.S. Vajeeta, Counsel for the State.

Case diary is available.

This first application under Section 438 of CrPC has been filed for grant of anticipatory bail.

The applicant apprehends her arrest due to issuance of perpetual warrant of arrest in Criminal Case No.1129/2014 (R.C.T.) pending before the Fourth Additional Sessions Judge, Bhind for offence punishable under Sections 195, 199, 211 of IPC.

It is submitted by the counsel for the applicant that on the report lodged by the applicant, a criminal case was registered for offence under Sections 363, 366(a), 376(2)(n) of IPC and Section 5(L) of Protection of Children from Sexual Offences Act, 2012 (in short "POCSO Act"). However, the prosecutrix has turned hostile and, accordingly, this Court by order dated 08.09.2017 passed in M.Cr.C. No.7718/2017 had granted permission to prosecute the applicant. It is submitted that since the applicant was minor, therefore, she is entitled for protection of the provision of Section 22(2) of the POCSO Act.

Per contra, the application is vehemently opposed by the counsel for the State. It is submitted that this Court by order dated 15.03.2022 passed in M.Cr.C. No.60320/2021 has already held as

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under:-

“Section 22(2) of the POCSO Act reads as under:-

“22(2). Where a false complaint has been made or false information has been provided by a child, no punishment shall be imposed on such child.

The contention of the counsel for the State is that the prosecutrix has not narrated the truth before the Trial Court because she had turned hostile and in respect of both the accused i.e. Sanjay Rawat and Santosh Rawat, but in the DNA report the incriminating articles of the prosecutrix were found containing the DNA profile of applicant No.2 Santosh Rawat and thus, it is not a case of giving false information or making false complaint, but it is a case of not deposing truth before the Trial Court, therefore, she can be prosecuted, even if she is a minor.”

Since the applicant is not being prosecuted for giving a false information or false complaint, however, the other prosecution witnesses are not exempted from any punishment. Giving a false evidence before this Court is not covered under Section 22(2) of POCSO Act. Even otherwise, if the minors are misused for settling down the score by lodging FIRs and thereafter resiling from the said allegation, then it would give rise to an alarming situation where an innocent person can be prosecuted for having negotiations by tarnishing his image in the society as well as by keeping him in jail. Every person has a right to live a dignified & respectable life and he cannot be prosecuted at the sweet will of the prosecutrix.

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Since giving a false evidence before the Court is not covered under Section 22(2) of the POCSO Act, therefore, it is held that the applicant is not entitled for protection of the provision of Section 22(2) of the POCSO Act.

Considering the fact that the prosecutrix had resiled from her complaint and it is not the case of the applicant that the complaint lodged by the prosecutrix was false, no case is made out for grant of bail. Furthermore, it is clear that the perpetual warrant of arrest was issued against her on 29.02.2020, however, she is still absconding even after expiry of 2 years.

Accordingly, the application fails and is hereby **dismissed**.

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

Abhi