

**IN THE HIGH COURT OF MADHYA PRADESH****AT GWALIOR****BEFORE****HON'BLE SHRI JUSTICE ATUL SREEDHARAN****ON THE 30<sup>th</sup> OF JANUARY, 2023****MISC. CRIMINAL CASE No. 4466 of 2023****Between:-**

**ANAND KUMAR JATAV S/O SHRI PRAKASH  
JATAV, AGED ABOUT 23 YEARS, OCCUPATION –  
AGRICULTURIST R/O VILLAGE CHAKK,  
JANAKPUR POLICE STATION BAMORKALAN,  
DISTRICT SHIVPURI (MADHYA PRADESH)**

**.....APPLICANT****(BY SHRI SURESH AGRAWAL – ADVOCATE)****AND**

- 1. STATE OF MADHYA PRADESH, THROUGH  
TOWN INSPECTOR, POLICE STATION  
BAMORKALAN DISTRICT SHIVPURI (MADHYA  
PRADESH).**
- 2. PROSECUTRIX THROUGH POLICE STATION  
BAMORKALAN DISTRICT SHIVPURI (MADHYA  
PRADESH)**

**.....RESPONDENTS****(BY SHRI NAVAL KUMAR GUPTA – PUBLIC PROSECUTOR)**

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This application coming on for admission this day, the court passed the following:

**ORDER**

This is the **first** application under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail to applicant Anand Kumar Jatav in connection with Crime No.01/2023 registered at Police Station Bamorkalan District Shivpuri for the offences punishable under Section 376(3) of IPC.

Applicant is in judicial custody since 12-01-2023 in the aforementioned case. Allegation against him is of having raped the prosecutrix who was a minor aged 17 years plus. Learned counsel for the applicant has submitted that the prosecutrix has not consented for the MLC which is not disputed by learned learned counsel for State.

However, learned counsel for the State while opposing the application for grant of bail has read out from 164 of the prosecutrix where she states that she ran away from home on account of quarrel with the parents who wanted to forcibly get her married and upon her opposing the proposal, the family members are stated to have beaten her. Thereafter she called the applicant with whom she eloped to Ahemdabad where applicant was arrested and prosecutrix was handed over to her parents.

From the above even the allegations being true, it would only reflect the case of statutory rape not forcible rape and upon *prima facie* appreciation of 164 statement of prosecutrix, no allegation of rape has been levelled against the applicant herein.

Under the circumstances, in view of what has been argued and considered by this Court hereinabove, application is allowed. It is directed that the applicant herein shall be enlarged on bail upon his furnishing a personal bond in the sum of **Rs.10,000/- (Rs. Ten Thousand Only)** with one solvent surety in the like amount to the satisfaction of the learned trial court.

Certified copy as per rules.

**(ATUL SREEDHARAN)**  
**JUDGE**