

High Court of Madhya Pradesh, Jabalpur
Bench at Indore
Miscellaneous Criminal Case No.26901/2020

(Kailash s/o Bapulal

Versus

The State of Madhya Pradesh)

Indore, Dated 23.09.2020

Mr. Rakesh Vyas, learned counsel for the applicant.

Mr. Sameer Verma, learned Panel Lawyer for the non-applicant / State of Madhya Pradesh.

They are heard. Perused case diary / challan papers.

This first application under Section 439 of Criminal Procedure Code, 1973 has been filed by applicant, who is implicated in connection with Crime No.272/2018 registered at Police Station Birlagram, Tahsil Nagda District Ujjain (MP) for offence punishable under Sections 363, 366 and 376 (2) (n) of the Indian Penal Code, 1860 and also under Section 5 (L) read with Section 6 of the Protection of Children from Sexual Offence Act, 2012.

The applicant is in custody since 05.07.2020.

As per prosecution case, on the basis of the allegations made by the prosecutrix regarding abduction, inducement and commission of rape on the pretext of marriage, the case has been registered against the present applicant.

Learned counsel for the applicant has submitted that the applicant is innocent and he has not

committed any offence. Although the prosecutrix is a minor girl aged about 17 years, however, according to her statement recorded under Section 164 of the Code of Criminal Procedure, 1973, she was having love affair with the applicant; she had gone with him on her own accord; remained in the company of the applicant for a considerable period; and later on, she also solemnized marriage with him. In the aforesaid statement, she has not made any allegation against the applicant regarding abduction and commission of rape. The applicant is in custody since 05.07.2020. The investigation is over and charge sheet has already been filed. There is no possibility of his / her absconsion or tampering with the evidence, if enlarged on bail. Conclusion of the trial will take sufficiently long time. Under these circumstances, learned counsel for the applicant prays for grant of bail to the applicant.

Learned Panel Lawyer for the non-applicant / State of Madhya Pradesh opposes the bail application by contending that no sufficient ground is made out for releasing the applicant on bail; hence he / she prayed for rejection of the application.

Considering the facts and circumstances of the case and the arguments advanced by learned counsel for the parties, but without commenting anything on the merits of the case, the application filed by the applicant is allowed. The applicant is directed to be

released on bail upon his / her furnishing a personal bond in the sum of **Rs.50,000/- (Rupees fifty thousand only)** with one solvent surety of the like amount to the satisfaction of trial Court, for his / her regular appearance before the trial Court during trial with a condition that he / she shall remain present before the Court concerned during trial and shall also abide by the conditions enumerated under Section 437 (3) of Criminal Procedure Code, 1973.

This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Certified copy, as per rules.

(S.K. Awasthi)
Judge