

# The High Court Of Madhya Pradesh

MCRC-36376-2021

(ANURAG Vs THE STATE OF MADHYA PRADESH AND OTHERS)

Indore, Dated : 03-08-2021

## Heard through Video Conferencing.

Shri Yogesh Kumar Gupta, learned counsel for the applicant.

Shri Shalabh Sharma PL for the respondent/State.

This is **first** application under Section 439 of the Code of Criminal Procedure, 1973. The applicant is in Jail since 27/06/2021 in connection with Crime No. 656/32021 registered at P.S.-Industrial Area, Dewas (M.P.) for commission of offence punishable under Sections 376, 376(2)(n) of IPC.

As per prosecution story, on 27/06/2021, 22 years old prosecutrix lodged a written complaint at police station-Industrial Area, Dewas against present applicant that she got married with one Nitesh Morya in the year 2017, but their marriage was broke down before the community. Since then, the prosecutrix was living at her parental home. One year ago, the prosecutrix got acquainted with applicant. Since then, both were fallen in love with each other. Since last two months, the applicant was committing sexual intercourse with the prosecutrix on the false pretext of marriage. On 20/05/2021, the prosecutrix fled away with the applicant from her parental home. They came to Dewas and lived in a rented home. The applicant committed sexual intercourse with the prosecutrix several times in Dewas also. Thereafter, the applicant refused to marry with the prosecutrix. Accordingly, aforementioned offence has been registered against him.

Learned counsel for the applicant contended that applicant is innocent and he has been falsely implicated in this offence. Prosecutrix is 22 years old married lady. She has got divorce from her first husband Nitesh. Present applicant and the prosecutrix had fallen in love and got married. She filed an application along with an affidavit before the trial Court on 09/07/2021 and stated that she is wife of the

present applicant and was happily living with him since last one year, but during lockdown, the applicant suffered financial crisis, therefore, she went to her parental home at Ujjain. She is willing to continue his matrimonial relationship with him and she has no objection, if the applicant is released on bail. Applicant is a young boy aged 18 years. There is no possibility of his absconding and tampering with evidence and witnesses. Under the above circumstances, prayer for grant of bail may be considered on such terms and conditions, as this Court deems fit and proper.

Learned PL for respondent – State opposes the bail application and prays for its ejection

Perused the impugned order of the trial Court as well as the case dairy.

Undoubtedly, the prosecutrix is aged 22 years major and married lady. Her statement under section 164 of Cr.PC has been recorded before the Court below, in which she has clearly admitted that she and present applicant had fallen in love with each other and her physical relation with him was consensus on her accord. She has also submitted an application along with an affidavit before the Court below that she has no objection, if the applicant is released on bail

Considering all the facts and circumstances of the case, nature of allegation as also keeping in view the fact that the prosecutrix is major lady and her physical relation with the applicant was consensus on her accord and possibility of delay in conclusion of the trial cannot be ruled out, I deem it proper to release the accused / applicant on bail. Therefore, without commenting on the merits of the case, the application is allowed.

It is directed that applicant **Anurag** be released on bail on his furnishing personal bonds in the sum of **Rs.70,000/- (Rs. Seventy thousand only)** with one solvent surety in the like amount to the satisfaction of the trial Court for his appearance before the trial Court, as and when required. He shall abide by the conditions enumerated u/S. 437(3) Cr.P.C.,

Before releasing the applicant/s from the custody, the Jail Authorities are directed to medically examine him in order to rule out the possibility of Covid-19 infections and shall comply with the directions issued by the Hon'ble Apex Court in W.P.No. 01/2020.

Certified copy, as per Rules.

(ANIL VERMA)  
J U D G E

