

1 HIGH COURT OF MADHYA PRADESH :
BENCH AT INDORE
MCRC No.6185/2021
Manoj Malik Vs. State of MP

Indore: Dated:-01/03/2021:-

Shri RB Singh, learned counsel for the applicant.

Ms. Bharti Lakkad, learned Panel Lawyer for the State.

Arguments heard. Perused the record.

This is first anticipatory bail application under Section 438 of Code of Criminal Procedure, 1973 filed by the applicant – Manoj Malik as he is apprehending his arrest in connection with Crime No.242/2019 registered at Police Station-Chhoti Gwaltoli, Indore (MP) for the offence punishable under Sections 376, 323, 379 of Indian Penal Code, 1860.

2) As per prosecution story, the complainant, who is an Advocate and practices in Mumbai High Court and also in Supreme Court, had lodged a report to the effect that she in connection with her briefs, set out from Delhi to Ratlam along with the applicant Manoj Malik, who is an LLB student on 04/11/2019. She travelled from Delhi to Ratlam and arrived at Indore in the night of 10/11/2019. As per the prosecutrix, in the night of 11.11.219, applicant tried to throttle her and committed rape upon her and also promised that he would marry her, but resiled from his promise, consequent to which, FIR was lodged.

3) Learned counsel submits that FIR was lodged belatedly on 09/12/2019. He also drew the attention of the Court to another FIR lodged against the same applicant by the prosecutrix in Vazirabad, Delhi regarding similar type of offence under Section 376 of IPC. In the aforesaid case, the applicant has been granted benefit of anticipatory bail (page 37 of the compilation). He submitted that prosecutrix is a habitual criminal and her

antecedents have been depicted in a tabular format, which is at page No.38-47 of the bail application, which shows registration of 11 criminal cases registered against her. In page 48 and 49, two cases have been registered against her under the provisions of Railways Act. Learned counsel for the applicant submitted that apart from being habitual criminal, the prosecutrix was also involved in committing offence under the POCSO Act with a minor girl. Report was lodged by her father, which is at page No.27 of the compilation.

4) The learned counsel further submitted that the prosecutrix had similarly lodged an FIR pertaining to commit rape upon her by another person, but she resiled from her complaint and filed a writ petition for quashing the aforesaid complaint and the order is at page No.104 to 108 of the petition.

5) Learned counsel has also referred to the fact that the High Court of Bombay has passed an order regarding issuance of contempt notice against the prosecutrix for disrupting the Court proceedings again and again and the order pertaining to which is at page No.50 & 51 of the petition. The prosecutrix thereafter preferred an SLP against this order and the Apex Court rejected the SLP. The order of the Apex Court is at Page 52. The prosecutrix has even filed written complaint against the Chief Justice of Bombay High Court, which is placed on record at Page No.54-58 of the petition.

6) The learned counsel has also pointed out that prosecutrix is habitual of lodging complaint. She has lodged FIR against the waiter of the hotel in which she stayed at Indore and also lodged

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a written complaint against the Hotel Manager.

7) Learned counsel for the applicant in view of the antecedents of the prosecutrix and in view of submissions made by him as aforesaid has sought anticipatory bail for the applicant.

8) Learned counsel for the State was heard, who submitted that in her 164 Cr.P.C., the prosecutrix has corroborated the prosecution story.

9) Perused the case diary.

10) The case diary shows that the prosecutrix and the applicant had stayed in the hotel at Indore in the same room and there is a dichotomy in her accusation against the applicant in the sense that on one hand the applicant had tried to throttle her and committed rape upon her and on the other hand, applicant had promised to marry her and resiled from marriage.

11) After duly considering the submissions and in view of submissions made by the applicant and after perusing the case diary, without commenting on the merits of the case, the case is made out for grant of anticipatory bail. This application for grant of anticipatory bail is allowed.

12) It is directed that in the event of arrest, the **applicant – Manoj Malik S/o Bhramsingh Choudhary**, subject to his furnishing a personal bond in the sum of **Rs.1,00,000/-(Rupees One Lakh)** with one local solvent surety of the like amount to the satisfaction of the Arresting Officer, subject to abiding the conditions enumerated under Section 438 (2) of the Cr.P.C. and giving due assistance to the Investigating Officer in the matter, the applicant shall be released. The applicant shall appear before

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the Investigating Officer on 10.03.2021 and on all other subsequent dates, as may be considered appropriate by the Investigating Officer from time to time.

13) M.Cr.C. No.6185/2021 is allowed and stands disposed of in the aforesaid terms.

Certified copy as per rules.

(SHAIENDRA SHUKLA)
JUDGE

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