

**IN THE HIGH COURT OF MADHYA PRADESH**

**AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE ANIL VERMA**

**ON THE 28<sup>th</sup> OF JUNE, 2022**

**MISC. CRIMINAL CASE No. 22900 of 2022**

Between:-

AASIF ALI S/O SABIR ALI,  
AGED ABOUT 40 YEARS,  
OCCUPATION: MAULANA,  
R/O 280, HAJI GALI, MADINA MASJID,  
INDORE (MADHYA PRADESH)

**.....APPLICANT**

**(BY SHRI VIVEK SINGH, ADV.)**

**AND**

THE STATE OF MADHYA PRADESH,  
THROUGH STATION HOUSE OFFICER,  
POLICE STATION AZAD NAGAR,  
INDORE (MADHYA PRADESH)

**.....RESPONDENT**

**(BY SHRI PRANAY JOSHI, PL)**

**(OBJECTOR BY SHRI IMRAN QURESHI, ADV.)**

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

**O R D E R**

This is the first bail application under Section 439 of the Code of Criminal Procedure, 1973 filed on behalf of the applicant

for grant of bail. The applicant is in custody since 09/03/2022 in connection with Crime No.25/2022 registered at Police Station – Azad Nagar, District Indore (M.P.) for commission of offence punishable under Section 342, 376, 376(2)(m) and 506 of the Indian Penal Code, 1860.

As per prosecution story, on 10/01/2022 complainant lodged a report alleging that 02 years before, prosecutrix suffered a paralytic attack because of which she was unwell. In order to get herself treated her family members came to Azad Nagar, Indore for getting her treated from the present applicant. The applicant entered the room and committed forceful sexual intercourse on 09/11/2021 and thereafter, gave threat to the prosecutrix. Accordingly, offence has been registered against the applicant.

Learned counsel for the applicant submits that the applicant is innocent person and he has been falsely implicated in this offence as he had given Rs.90,000/- loan to Sameer Baba who happens to be brother-in-law of the prosecutrix. When the applicant demanded the money back, a threat was given by husband of the prosecutrix for implicating the applicant in a false rape case. In this regard a complaint was also lodged by the present applicant on 30/11/2021. Applicant is in custody since 09/03/2022. Final conclusion of the trial is likely to take sufficient long time. Applicant is permanent resident of district Indore. Under the above circumstances, prayer

for grant of bail may be considered on such terms and conditions, as this Court deems fit and proper.

*Per contra*, learned counsel for the respondent / State opposes the bail application and prays for its rejection by submitting that prosecutrix in her statement recorded under Section 164 of Cr.P.C. has supported the FIR. Hence, the applicant is not entitled to be released on bail.

Counsel for the objector also prays for rejection of the application by submitting that the applicant has committed forceful rape upon the prosecutrix by using his position. He was remain abscond for a period of one month and ten days. Applicant is pressuring the prosecutrix for withdrawal of the case. If bail is granted to the applicant, he will be again abscond. Therefore, he is not entitled for grant of bail.

Perused the impugned order of the trial Court as well as the case diary. On 30/11/2021 present applicant filed a written complaint before the Superintendent of Police (East), Indore.

Considering the facts and circumstances of the case, nature and gravity of offence, arguments advanced by the learned counsel for the applicant and also taking note of the fact that the prosecutrix is a 33 years old major and married lady. Prior to lodging of this FIR against the present applicant, applicant has also filed a written complaint before the Superintendent of Police (East), Indore on

30/11/2021 in which it was mentioned that husband of the prosecutrix is not refunding his money of Rs.90,000/- and is threatening him for implicating him in a false rape case. Investigation is over, therefore, no further custodial interrogation is required and final conclusion of the trial will take sufficient long time. In these circumstances, I deem it proper to release the applicant on bail. Therefore, without commenting on the merits of the case, the application is allowed.

It is directed that applicant be released on bail on his furnishing personal bond in the sum of **Rs.75,000/- (Rupees Seventy Five 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 all the conditions enumerated under Section 437(3) Cr.P.C.

Certified copy as per rules.

**(ANIL VERMA)**  
**J U D G E**