

**IN THE HIGH COURT OF MADHYA PRADESH****AT INDORE****BEFORE****HON'BLE SHRI JUSTICE ANIL VERMA****ON THE 26<sup>th</sup> OF MAY, 2022****MISC. CRIMINAL CASE No. 25459 of 2022****Between:-****RAJU S/O SURESH BAGHEL , AGED ABOUT 21 YEARS, OCCUPATION:  
LABOUR VILLGE KHERWA, TEHSIL JOBAT (MADHYA PRADESH)****.....PETITIONER****(BY SHRI DHARMENDRA YADAV, ADVOCATE )****AND**

- 1. THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER  
THROUGH POLICE STATION BAG (MADHYA PRADESH)**
- 2. VICTIM X THROUGH P.S. BAGH DHAR (MADHYA PRADESH)**

**.....RESPONDENTS****(BY SHRI RAJESH JOSHI, GA )**

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

**ORDER**

Applicant has filed this first bail application under Section 439 of the Code of Criminal Procedure, 1973 in connection with Crime No. 289/2021 registered at P.S – Bhag, District- Dhar (M.P.) for commission of offence punishable under Sections 366, 366-A, 376, 376(3), 506 of IPC and sections 3 / 4(2) of POCSO Act.

As per prosecution story, on 18.06.2021 the prosecutrix aged about 13 yeras minor was at her relative's place.with her paternal

aunt for a wedding. At around 3 a.m., when the prosecutrix, was sleeping in her relative's Toofan car, the applicant forcefully took her from the car to the field and committed the offence of rape. Consequently, after almost 5 days an FIR bearing Crime No. 289/2021 was registered at P.S.- Bagh, District- Dhar wherein the applicant has been charged under the above mentioned offences.

Learned counsel for the applicant contended that applicant is innocent and has been falsely implicated in this offence. There is no legal evidence available on record to connect the applicant with the aforementioned offence. The alleged FIR is five days delayed. The prosecutrix and her parents have examined before the trial Court and not supported the prosecution version. His further custodial interrogation is not required. He is in jail since 28/06/2021. He is a permanent resident of District- Dhar.. There is no apprehension of his fleeing away from the court of justice or tampering with the prosecution evidence. Final conclusion of trial shall take sufficient long time. 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 PL for respondent – State opposes the bail application and prays for its rejection

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

Considering all the facts and circumstances of the case, arguments advanced by both the parties, nature of the allegation as also taking note of the fact that the prosecutrix (PW-3), her mother (PW-4) and father (PW-5)

have been examined before this trial Court and not supported the prosecution version and turned hostile; the prosecutrix has categorically stated in her statement that present applicant neither abducted nor committed rape upon her; the same was disposed by her parents; the applicant is in jail since 28/06/2021; no further custodial interrogation is required and possibility of delay in conclusion of the trial cannot be ruled out, I deem it proper to release the accused / applicant on bail.

Accordingly, without commenting on the merits of the case, the application is allowed. It is directed that the applicant be released on bail on his furnishing personal bond in the sum of **Rs75,000/- (Rs. 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 the conditions enumerated u/S. 437(3) Cr.P.C.,

It is made clear that if the applicant is again found to be involved in any other offence during the trial, this order shall stand cancelled automatically without reference to the Court and the police will be at liberty to arrest the applicant in the present case also. 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.

**(ANIL VERMA)**  
**VACATION JUDGE**