

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE ANIL VERMA

ON THE 28th OF JUNE, 2022

MISC. CRIMINAL CASE No. 25673 of 2022

Between:-

GHANSHYAMDAS BAIRAGI,
S/O JUGALDAS BAIRAGI,
AGED ABOUT 25 YEARS,
OCCUPATION: LABOR,
R/O VILLAGE PIPLIYA,
TURWAR, P.S. TAAL,
DISTRICT RATLAM (MADHYA PRADESH)

.....APPLICANT

(BY SHRI MANOJ SAXENA, ADV)

AND

1. THE STATE OF MADHYA PRADESH,
THROUGH STATION HOUSE OFFICER,
POLICE STATION ALOT,
DISTRICT RATLAM (MADHYA PRADESH)

2. VICTIM X,
THROUGH P.S. ALOT,
DISTRICT RATLAM (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI PRANAY JOSHI, PL)

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 24/12/2021 in connection with Crime No.128/2022 registered at Police Station – Alot, District Ratlam (M.P.) for commission of offence punishable under Section 363, 366, 366-A, 370, 370-A and 376(1)(2)(N) of the Indian Penal Code, 1860 read with Section 5(L)/16 and 17 of Protection of Children from Sexual Offences Act, 2012.

As per prosecution story, the father of the prosecutrix / complainant Kaluram launched a missing report at Police Station Alot stating that he had solemnized his daughter's marriage with one Kanhaiyalal at Vilalge Avari but his minor daughter was living with him at his home only at Village Hingadi. On 21/03/2018 when he went to his daughter's matrimonial house, he received a phone call from Heeralal Dhakad that his minor daughter has gone somewhere and is missing. After search they were not able to find the missing daughter. During the investigation, prosecutrix was recovered from the possession of the present applicant and she narrated that the present applicant abducted her and told that he will arrange her marriage at some other place. On the pretext of her marriage Ghanshyamdas abducted her and committed rape upon

her. Then he sold out her to some other persons. Co-accused Mohanlal purchased her in Rs.70,000/- and he also committed rape upon her. Accordingly, offence has been registered against the applicant and other co-accused persons.

Learned counsel for the applicant submits that the applicant is innocent person and he has been falsely implicated in this offence. He is in custody since 24/12/2021. Applicant is a young boy of 25 years of age. He has not committed rape upon the prosecutrix. Investigation is over and charge sheet has been filed. Applicant is the permanent resident of Ratlam District. Medical evidence did not corroborate with the prosecution story. Final conclusion of the trial is likely to 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 counsel for the respondent / State opposes the bail application and prays for its rejection by submitting that the prosecutrix was minor at the time of incidence. Applicant has committed rape upon her and sold her several times. Therefore, he is not entitled to be released on bail.

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

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 as per the Scholar Register prosecutrix's date of birth is 25/06/2001, therefore, it appears that at the time of incidence, which was occurred in the month of March, 2018, the prosecutrix was minor. In the present matter minor prosecutrix was kidnapped, rapped and sold out several times. Present applicant is also a part of the same conspiracy.

In view of the above, without commenting upon the merits of the case, at this stage, this Court is not inclined to grant bail to the present applicant. Accordingly, the first bail application preferred under Section 439 of Cr.P.C. is hereby rejected.

Certified copy as per rules.

(ANIL VERMA)
J U D G E

Tej