

**IN THE HIGH COURT OF MADHYA PRADESH****AT INDORE****BEFORE****HON'BLE SHRI JUSTICE ANIL VERMA****ON THE 22<sup>nd</sup> OF JUNE, 2022****MISC. CRIMINAL CASE No. 26793 of 2022****Between:-****MANOHARLAL URF MOHAN S/O SHRI MANGULAL JI , AGED ABOUT 45 YEARS, OCCUPATION: MAJDURI GRAM BASAI, TEHSIL SUWASRA (MADHYA PRADESH)****.....PETITIONER****(BY SHRI BHUPENDRA SOLANKI, ADVOCATE )****AND****THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THROUGH POLICE STATION NANAKHEDA (MADHYA PRADESH)****.....RESPONDENTS****(BY SHRI R.S. BAIS, 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. 234/2022 registered at P.S - .Nanakhedra, Ujjain District- Ujjain (M.P.) for commission of offence punishable under Sections 363, 366, 376(2)(n), 342, 212 of IPC and sections 3/ 4, 5/6 of POCSO Act.

As per prosecution story, 24/04/2022 complainant went for labour job leaving at home her sister/prosecutrix, her daughter and son. When she came back at 6.00 pm, she found her sister/prosecutrix missing from the home. She searched for her

everywhere, she could not find, therefore, on 27/04/2022, the complainant lodged missing person report at police station – Nanakheda. During investigation, the prosecutrix was recovered from the possession of co-accused Dharmendra and on the basis of his memorandum statement recorded under section 27 of the Evidence Act, present applicant has been implicated in this case on the ground that the applicant gave shelter to the co-accused Dharmendra. Accordingly, a case has been registered against the applicant.

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. Present applicant is real nephew of co-accused Dharmendra and due to relationship, the co-accused oftenly stayed at his home. He did not help the co-accused for commission of the alleged offence. He is in jail since 12/05/2022.. He is a permanent resident of District- Mandsaur. 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 dairy.

Considering all the facts and circumstances of the case, arguments advanced by both the parties, nature of allegation as also taking note of the fact that present applicant is accused of section 212 of IPC; he is not the main accused in the alleged offence and

he has been made accused only on the basis of memorandum statement of co-accused person recorded under section 27 of the Evidence Act; he has no criminal background; he is in jail since 12/05/2022 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 **Rs.75,000/- (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)  
J U D G E

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