

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE**

HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA

ON THE 8th OF JUNE, 2023

MISC. CRIMINAL CASE No. 23685 of 2023

BETWEEN:-

**AKASH S/O CHAGGAN NATH, AGED ABOUT 26
YEARS, OCCUPATION: LABOURER VILLAGE
RALAYTHA TEHSIL DEPALPUR DISTRICT INDORE
(MADHYA PRADESH)**

.....APPLICANT

(BY SHRI ABHAY SARASWAT – ADVOCATE)

AND

- THE STATE OF MADHYA PRADESH STATION
HOUSE OFFICER THROUGH POLICE STATION**
- 1. BHERUGARH DISTRICT UJJAIN (MADHYA
PRADESH)**
 - 2. PROSECUTRIX X THROUGH P.S. BHERUGARH,
DISTT. UJJAIN (MADHYA PRADESH)**

.....RESPONDENTS

**(BY SHRI TARUN KUSHWAH - GOVT. ADVOCATE)
COMPLAINANT BY SHRI RAKESH KUMAR SHARMA-
ADVOCATE)**

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

ORDER

This is the first application filed by the applicant under section 439 of the Cr.P.C. for grant of regular bail relating to FIR No.512/2022 (not mentioned) registered at Police Station - Bherugarh, Ujjain (M.P.) for the offence under Sections 366-A, 376(2)(n) of the IPC and sections 5(J)(2) / 6 and 5(L) / 6 of POCSO Act.

2. As per the prosecution case, the applicant had abducted the minor girl and also committed rape with her

3. Learned counsel for the applicant submits that the prosecutrix has not supported the prosecution case in her statement under section 164 of Cr.P.C. It is further submitted that the applicant has already married the prosecutrix. The prosecutrix has filed no objection to grant of bail to the applicant.

4. Learned counsel for the respondent/state has opposed the prayer on the ground that as per school transfer certificate, age of the prosecutrix was minor at the time of the incident, however, there is no other documentary evidence to establish the age of the prosecutrix.

5. After hearing learned counsel for the parties and taking into consideration that the prosecutrix has no objection to grant bail to the applicant and further the prosecution has no documentary evidence to establish the age of the prosecutrix except the school transfer certificate, prima-facie case is made out for grant of bail to the applicant.

6. Accordingly, the application is allowed. It is directed that the applicant shall be released from custody upon furnishing a personal bond of **Rs.50,000/- (Rupees Fifty Thousand Only)** with one surety of the like amount to the satisfaction of the court below.

7. The prison authorities are also requested to ensure compliance with the order passed by the Supreme Court IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS in SUO MOTU "W.P. (C) No.1/2020" and ensure that the applicant is examined by the jail doctor before her release. If the applicant shows symptoms of COVID-19, the doctor shall forthwith direct her to be produced before the appropriate hospital designated for the detection and treatment of COVID-19 patients. If the doctor is of the opinion that the applicant is

not affected with the virus, the jail authorities shall ensure her transportation from the jail till his place of residence.

8. It is further made clear that if it is found that the applicant is involved in any other case during the trial, this bail order shall stand cancelled automatically without reference to the Court and the Police will be at liberty to arrest the applicant.

9. A typed copy of this order is being forwarded to the Office of the Advocate General, on their email address, for intimation to the Police Station concerned. The office is requested to forward a copy of this order to the Ld. Court below

Cc as per rules.

(VIJAY KUMAR SHUKLA)
VACATION JUDGE

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