

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

**HON'BLE SHRI JUSTICE ANIL VERMA**

**ON THE 30<sup>th</sup> OF JANUARY, 2023**

**MISC. CRIMINAL CASE No. 4499 of 2023**

**BETWEEN:-**

**KAMLESH @ SONU S/O SHIVLAL, AGED ABOUT  
18 YEARS, OCCUPATION: LABOUR GRAM  
KALUKEHDA, TEHSIL ALOT DISTRICT RATLAM  
(MADHYA PRADESH)**

**.....APPLICANT**

**(*ANSHUL SHRIVASTAVA, LEARNED COUNSEL FOR THE PETITIONER .*  
)**

**AND**

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

**2. VICTIM X THROUGH P.S. BARKHEDAKALA  
DISTRICT RATLAM (MADHYA PRADESH)**

**.....RESPONDENTS**

**(*BY SHRI KAPIL MAHANT- PL*)**

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

**ORDER**

Learned PL informs that notice has duly been served to the prosecutrix.

Applicant has filed this first bail application under Section 439 of the Code of Criminal Procedure, 1973 in connection with Crime No. 117/2022 registered at P.S - Barkhedakala, District- Ratlam (M.P.) for commission of offence punishable under Sections 363, 367, 368, 376,

376(2)(n), of IPC and sections 5 L/ 6 of POCSO Act.

As per prosecution story, on 09/07/2022, father of the prosecutrix lodged a missing person report at police station – Barkhedakala, District- Ratlam stating that her minor daughter / prosecutrix is missing from home since 07/07/2022. He tried to search for her everywhere, but could not find her. During investigation, it was gathered that present applicant abducted and took her with him at Moravi (Gujrat) and committed rape upon her several times. Accordingly, the aforementioned offence was registered and he was arrested.

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. Investigation is over and charge-sheet has been filed,. Prosecutrix (PW-1) has been examined before the trial Court. She turned hostile and not stated anything against the applicant regarding the aforesaid crime. Applicant is in custody since 02/09/2022. He is permanent resident of District- Ratlam. There is no apprehension of his fleeing away from the court of justice. 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 prosecutrix (PW-1) has been examined before the trial

Court and turned hostile; she categorically stated in her statement that present applicant neither abducted, nor committed rape upon her; the applicant is in custody since 02/09/2022 and possibility of delay in conclusion of the trial cannot be ruled out, in view of the evidence available on record, I deem it proper to release the accused / applicants 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 all 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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