

**IN THE HIGH COURT OF JUDICATURE FOR MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE SHEEL NAGU

ON THE 13TH OF MAY, 2022

MCRC NO.22564 OF 2022

Between:-

**AJAY S/O SHRI BARJOR , AGED ABOUT 21
YEARS, OCCUPATION: LABOUR WORK R/O
VILLAGE DVLA MATI TEHSIL PUNASA
DISTRICT KHANDWA (M.P.) (MADHYA
PRADESH)**

.....APPELLANT

(NONE)

AND

**THE STATE OF MADHYA PRADESH
THROUGH POLICE STATION NARMADA
NAGAR DISTRICT KHANDWA(MP) (MADHYA
PRADESH)**

.....RESPONDENT

(SHRI AJAY SHUKLA, GOVERNMENT ADVOCATE.)

*This appeal coming on for admission this day, the Court passed
the following:*

ORDER

Case diary is perused.

Learned counsel for the rival parties are heard.

This is third application u/S.439 of the Cr.P.C. filed by the petitioner for grant of bail after rejection of earlier one which was dismissed on merits on 08.04.2022 passed in M.Cr.C. No.15069/2022 with liberty to come again after examination of parents.

The petitioner has been arrested on 06.12.2021 by Police Station Narmada Nagar, District Khandwa in connection with Crime No.365/2021 registered in relation to the offence punishable u/S. 363, 366, 376 of IPC and Section 5/6 of POCSO Act.

Learned counsel for the State opposed the application and prayed for its rejection by contending that on the basis of the allegations and the material available on record, no case for grant of bail is made out.

New ground raised in this repeat application is examination of PW/1 to PW/5 which includes parents of the prosecutrix. Hence, there appears to be no possibility of influencing prosecution case.

In view of above, it appears that the main witnesses have been examined and release of the petitioner shall not be at a risk of influencing the prosecution case and looking to the fact that early conclusion of the trial is a bleak possibility and prolonged pre-trial detention being an anathema to the concept of liberty and the material placed on record does not disclose possibility of petitioner fleeing

from justice, though this Court is inclined to extend benefit of bail to the petitioner but with certain stringent in view of nature of offence.

Accordingly, without expressing any opinion on merits of the case, this application is **allowed** and it is directed that **Petitioner-Ajay** be released on bail on furnishing a personal bond in the sum of **Rs.50,000/- (Rs. Fifty Thousand only) with two solvent sureties of the like amount** to the satisfaction of concerned Trial Court.

This order will remain operative subject to compliance of the following conditions by the petitioner :-

- 1.The petitioner will comply with all the terms and conditions of the bond executed by him;
2. The petitioner will cooperate in the trial;
3. The petitioner will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The petitioner shall not commit an offence similar to the offence of which he is accused;
5. The petitioner will not seek unnecessary adjournments during the trial;
6. The petitioner will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

7. The learned concerned Magistrate and the prosecution are directed to ensure following of Covid-19 precautionary protocol prescribed from time to time by the Supreme Court, the Central Govt. and as well as the State Govt during release, travel and residence of the petitioner during period of bail as a consequence of this order.

8. The petitioner shall mark his appearance before the concerned trial court once in a fortnight till conclusion of trial.

9. If petitioner is found in close vicinity of the victim or their family members then the victim will be free to seek cancellation of his bail.

The Superintendent of Police, Khandwa(M.P.) shall ensure proper protection to be given to the victim under the Witness Protection Scheme, 2018, formulated by the Supreme Court in the case of "**Mahender Chawla & Ors. Vs. Union of India & Ors. [(2019) 14 SCC 615]**".

Registry is directed to communicate the copy of this order to the Superintendent of Police, Khandwa(M.P.) for compliance.

The Station House Officer of the concerned Police Station is directed as follows:

1. The Station House Officer shall inform the victim about the release of petitioner on bail and shall also supply a copy of this bail order to the victim.
2. In case of breach of any of the conditions of this order, the victim shall be free to report the matter to the Station House Officer of the concerned Police Station.
3. On receipt of any such complaint from the victim, the Station House Officer of the concerned police station, in turn, shall inform the Registry of this Court.
4. On receipt of information from the Station House Officer as aforesaid, the Registry of this Court shall list this matter under caption "Directions" before the appropriate Bench.

संबंधित पुलिस थाने के थाना प्रभारी को निम्नानुसार आदेशित किया जाता है कि:

1. थाना प्रभारी पीड़ित को याचिकाकर्ता के जमानत पर रिहाई के तथ्य को सूचित करेगा तथा जमानत आदेश की एक प्रतिलिपि भी उपलब्ध करायेगा।
2. यदि किसी प्रकार का कोई आदेश में उल्लिखित शर्तों का उल्लंघन होता है तो पीड़ित उक्त तथ्य के संबंध में थाना प्रभारी को सूचित करने के लिए स्वतंत्र रहेगा।
3. यदि किसी प्रकार की ऐसी शिकायत थाना प्रभारी को पीड़ित द्वारा प्राप्त होती है तो वह तुरंत इसकी सूचना इस रजिस्ट्री को उपलब्ध कराएगा।
4. जैसा कि उल्लिखित है, थाना प्रभारी की ऐसी सूचना प्राप्ति के दौरान रजिस्ट्री यह मामला तुरंत माननीय न्यायालय के समक्ष दिशा निर्देश के तहत प्रस्तुत करेगी।

The Registry of this Court is directed to send a copy of this order to the Magistrate of the concerned district as well as to the concerned Station House Officer for information and compliance.

A copy of this order be sent to the court below for compliance.

Certified copy as per rules.

(Sheel Nagu)
Judge

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