

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL MISHRA

ON THE 22nd OF OCTOBER, 2024

MISC. CRIMINAL CASE No. 45153 of 2024

SMT.USHA BAI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Ajay Kumar Jain - Advocate for applicant.

Shri Shailendra Mishra - Public Prosecutor for respondent/State.
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ORDER

This is the second application filed by the applicant under Section 439 of the Code of Criminal Procedure/483 of the Bhartiya Nagrik Surksha Sanhiya, 2023 for grant of regular bail relating to Crime No.269 of 2024 registered at Police Station Sohagpur, District Hoshangabad (Narmapuram) (M.P.) for the offence under Sections 363, 366-A, 376, 376 (D), 109, 201, and 120-B of the Indian Penal Code, Sections 3, 4, 16 and 17 of the Protection of Children From Sexual Offences Act, 2012 and Sections 3(1) w(i), 3(2)(v) and 3(2)(va) of the SC/ST (Prevention of Atrocities) Act, 1989. Her earlier application being M.Cr.C.No.32044 of 2024 was dismissed as withdrawn vide order dated 09.08.2024.

It is submitted that the applicant has been falsely implicated in the case and she has not committed any offence in the matter. It is argued that the applicant is a lady aged about 41 years of age. She is in custody since 02.07.2024. There is no allegation of committing or participating in the

offence as per the written complaint made by the victim or in the FIR or even in her statement which has been recorded under Section 161 of the Code of Criminal Procedure before the police authorities. The written complaint reveals that the victim went away with main accused Shanker at about 3.00 am in the morning on a motorcycle. She was taken to one Tapariya (hut) constructed in the field of one Chandan Patel at Rewamuhari where Shanker committed rape with her. Threatening was also given to her not to narrate the incident to anyone or else to face dire consequences. Thereafter, she came back and narrated the incident to the family members. On the basis of the aforesaid complaint, an FIR was got registered. Subsequently her statement has been recorded under Section 164 of the Code of Criminal Procedure before the trial court on 13.05.2024 wherein she has implicated the present applicant alleging therein that she facilitated in commission of offence by main accused Shanker. As a charge-sheet has been filed in the matter, therefore, there is no further requirement of custodial interrogation of the present applicant in the matter. She is ready to abide by all the terms and conditions that may be imposed by this Court while considering the bail application. On these grounds, a prayer is made to enlarge the applicant on bail.

Per contra, State counsel has vehemently opposed the application and supported the impugned order of rejecting of bail pointing out the fact that in the statement under Section 164 of the Code of the Criminal Procedure, there is specific allegation against the present applicant. In view of the aforesaid, he has prayed for dismissal of the application.

Considering the overall facts and circumstances of the case and without commenting upon the merits of the case, this Court deems it appropriate to allow this application. Accordingly, the application is allowed. The applicant is directed to be released on bail on furnishing a personal bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety in the like amount to the satisfaction of trial Court. It is directed that the applicant shall comply with conditions as enumerated under Section 437(3) CrPC.

This order shall remain effective till the end of the trial but in case of bail jump and breach of any of the pre-condition of bail, it shall become ineffective and cancelled without reference to this Bench.

In the event of involvement of the applicant in any other offence the liberty granted by this Court shall stand rejected automatically.

In above terms, the application stands allowed.

(VISHAL MISHRA)
JUDGE