

The High Court of Madhya Pradesh

M.Cr.C. No. 19618/2020

(Rampravesh Vishwakarma Vs. State of M.P.)

Gwalior dated 02.07.2020

Shri Amit Lahoti, learned counsel for the petitioner.

Shri Sumit Mishra, learned Panel Lawyer, for respondent/State.

Learned counsel for the rival parties are heard through video conferencing.

The petitioner has filed this first application u/S.439 Cr.P.C. for grant of bail.

The petitioner has been arrested on 06.01.2020 by Police Station-Sironj, District Vidisha (M.P.), in connection with Crime No.10/2020 registered in relation to the offences punishable u/Ss.376, 450, 506 IPC and Sec. 3/4 of the Protection of Children from Sexual Offences Act 2012.

Learned counsel for 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.

House trespass and rape along with the offence punishable under the provisions of POCSO Act are alleged against the petitioner in respect of prosecutrix aged 16 years and 11 months. Charge sheet in the matter has been filed. FIR lodged by the prosecutrix reveals presence of element

of consent. There is no injury on the body of the prosecutrix in the MLC. Since ossification test has not been done to ascertain the biological age of the prosecutrix and the MLC reveals that the age of the prosecutrix to be 18 years, possibility of prosecutrix being 18 or more than 18 years cannot be ruled out. Petitioner has no criminal antecedents.

In view of above facts, no further custodial interrogation is necessary since charge-sheet in the matter has been filed, looking to the ongoing Covid-19 pandemic crises and 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, this Court is inclined to extend the benefit of bail to the petitioner.

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

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 trials;

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 as a Shiksha Swayamsewak shall render physical and financial assistance to Govt. Primary School situated nearest to his residence for ensuring hygiene and sanitation and for removing deficiencies of infrastructural amenities in the said School from the skill /resources of petitioner.

The Registry of this Court shall communicate this order through Legal Aid Officer, SALSA Gwalior to the Collector, District Education

Officer, Block Education Officer of the District/Block concerned for information and compliance.

A copy of this order be supplied to the Legal Aid Officer, SALSA, Gwalior who is directed to communicate this order to the Paralegal Volunteers of the area concerned to verify as to whether petitioner has complied with the Condition No.8 or not and submit report once every month.

In case report regarding abovesaid condition is not filed or report is found to be wanting in any manner then Registry is directed to list this matter as PUD before appropriate Bench.

A copy of this order be sent to the court concerned for information.

C.C. as per rules.

(Sheel Nagu)
Judge

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