

HIGH COURT OF MADHYA PRADESH

M.Cr.C.No.24845/2020

(Rinku Jatav Vs. State of M.P.)

Gwalior Bench: Dated :05/08/2020

Shri Anil Mishra, learned counsel for the applicant.

Shri C.P.Singh, learned Panel Lawyer for the respondent/State.

Shri Alok Sharma, learned counsel for complainant.

Heard the counsel for the parties through Video Conferencing.

The applicant has filed this second bail application u/S.438, Cr.P.C. for grant of bail. Applicant is apprehending his arrest in respect of registration of crime No.159/2020 registered at Police Station Bhitwar, District Gwalior, in relation to the offences punishable under Sections 341, 354(1)(A)(iv), 354(D) and 506 of IPC and 7/8 of POCSO Act.

It is the submission of learned counsel for the applicant that this is repeat application filed on behalf of applicant because certain facts could not be presented before the Court in earlier round of litigation. It is further submitted that applicant only proposed the girl to marry him and it does not constitute any offence under Section 354(A) or Section 354(B) of IPC or 7/8 of POCSO Act. Both were in love relationship, therefore, applicant has been falsely implicated in this case. He is a student and therefore, prayer for anticipatory bail may be considered.

Learned counsel for the State opposed the prayer on the basis of the fact that applicant used to harass the prosecutrix repeatedly and

used to make lewd remarks. He used to follow her also. As per the statement of prosecutrix, applicant was her teacher and she is 15 years old girl and when disposition of applicant towards victim became unbearable and vulgar, then victim left her classes and started going somewhere else for getting tutorials, but he continued to follow her. Looking to the rising of such incidents, it is imperative that applicant may be given a lesson. Even otherwise custodial interrogation is required in the case. Therefore, he prayed for dismissal of application.

Heard learned counsel for the parties at length and perused the case dairy through VC and considered the arguments advanced by them.

This is the case where applicant is facing implication of Section 354 (A)(1)(iv) of IPC for making sexually colored remarks and causing sexual harassment to a girl as well as Section 354(D) of IPC, which elaborately refers different manners and mannerism for sexual harassment and contours of Sections 7 and 8 of POCSO Act are sufficient to indicate at this juncture that victim was constantly sexually harassed by the applicant. Victim is 15 years old girl and applicant was her teacher, therefore, it is all the more heinous and ugly in nature.

This Court in the case of Miss X Vs. State of M.P. And Ors. (CRA.No.6326/2019) vide order dt. 12.12.2019 has elaborately discussed the concept of Broken Windows Theory, which reads as under:-

*In fact street harassment is far more pervasive and humiliating than the threat of physical sexual assault, therefore, it is imperative that Investigation (Police Authority), Prosecution (Public Prosecutor) and Adjudication (Judge) must keep in mind that Crime and Disorder are strongly interrelated and therefore, **Broken Windows Theory**, a Criminological Theory mainly influence Police and law enforcement but has material bearing in realm of prosecution and adjudication also. According to this theory, targeting minor disorder is expected to reduce occurrence of more serious crime. Idea behind is can be summarized in an expression that if a window in a building is broken and left unrepaired, all of the windows will soon be broken. Therefore, it is a theory of Order Maintenance Police but it has relevance for prosecution and for adjudication also as referred above because punishment of minor offences ought to have preventive effect on more harmful acts and therefore, if minor offences at the threshold are checked or objected then it may prevent commission of severe offences.*

In the aforesaid case, this Court has specifically mentioned the fact that if minor offences are nipped in the budding stage, then this would act as deterrent for the citizens to commit heinous crimes. Some crimes give psychic gains and some crimes give monetary gains and here the applicant was trying to get psychic grains over victim and this cannot be quantified but can be qualitatively assessed from the statement of victim and other attending circumstances. Investigation (Police), Prosecution (Public Prosecutor) and Adjudication (Courts) are duty bound to look into such allegations in view of law and discussions made in the judgment passed in the case of Miss X (Supra)

In cumulative analysis, no case for anticipatory bail is made out.

Application sans merit and is hereby dismissed.

Police is directed to proceed further in accordance with law.

A copy be sent to Police.

(Anand Pathak)
Judge