

The High Court Of Madhya Pradesh

MCRC-33549-2021

(AMIT KEWAT Vs THE STATE OF MADHYA PRADESH AND OTHERS)

Jabalpur, Dated : 23-10-2021

Shri R.B. Gautam, Advocate for the applicant.

Shri Saurabh Tamrakar, P.L. for the respondent/State.

Shri Deepesh Koshta, Advocate for the objector.

This is the **first** bail application filed by the applicant under Section 439 of the Cr.P.C.

The applicant is in custody since 01.07.2021 in connection with Crime No.1037/2021 registered at Police Station Adhartal, Jabalpur (MP) for the offences punishable under Sections 363, 376(2)(N)/34 of the IPC.

Allegation against the applicant is that he repeatedly committed rape with the prosecutrix, who was minor at the time of incident and her age was near about 17 years.

Learned counsel for the applicant submits that the applicant is innocent. He is in custody since 01.07.2021. Trial is still pending. It is a case of consensual sexual relationship. There is no conclusive proof with regard to evidence of the age of the prosecutrix that she was below 18 years. The prosecutrix is matured girl and appeared to be major. The applicant has no criminal antecedent. There is no likelihood of applicant absconding or tampering with the evidence. Applicant's further custody is not warranted. Hence, he be enlarged on bail.

Learned P.L. opposed the application and prayed for rejection of the same.

Learned counsel for the objector also opposes the bail application.

Looking to the facts and circumstances of the case, this Court is of the view that this is not a case in which the applicant is required to be kept in custody during the whole trial, but without commenting anything on the merits of the case, this application is **allowed**.

It is ordered that that the applicant/accused be released on bail on his

furnishing a personal bond for the sum of **Rs.35,000/-** with a solvent surety in the like amount to the satisfaction of the trial Court for securing his presence before the said Court on all the dates of hearing fixed in this regard during trial and for complying with the conditions enumerated in sub-section (3) of Section 437 of Cr.P.C.

It is further directed that the Jail authority shall comply with all the directions and guidelines issued by the Central Government and the State Government from time to time in regard to outbreak of Covid-19 pandemic before releasing the applicant from the jail.

Certified copy/e-copy-as per rules.

(ARUN KUMAR SHARMA)
JUDGE

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