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

**BEFORE
HON'BLE SHRI JUSTICE VISHAL DHAGAT
ON THE 6th OF DECEMBER, 2023**

MISC. CRIMINAL CASE No. 49248 of 2023

BETWEEN:-

**SMT. SAROJ KUMRE W/O SHRI MAHERBAN SINGH
CHOUHAN, AGED ABOUT 29 YEARS, OCCUPATION:
HOUSE WIFE R/O VILLAGE MOHAMMEDKHEDA P.S.
AKODIYA, DISTRICT SAJAPUR (MADHYA PRADESH)**

.....APPLICANT

(BY SHRI ASHISH SINHA - ADVOCATE FOR APPLICANT)

AND

**THE STATE OF MADHYA PRADESH THROUGH POLICE
STATION MAHILA THANA, DISTRICT SEHORE
(MADHYA PRADESH)**

.....RESPONDENTS

***(BY SHRI D.K. PAROHA - GOVT. ADVOCATE FOR RESPONDENT/STATE
AND SHRI SURENDRA PATEL - ADVOCATE FOR OBJECTOR)***

.....
*This application coming on for admission this day, the court passed the
following:*

ORDER

This is first bail application filed by the applicant under Section 438 of Code of Criminal Procedure for grant of anticipatory bail relating to FIR No.73/2023, registered at Police Station-Mahila Thana, District-Sehore (M.P.) for the offence punishable under Sections 498-A, 294, 506, 420 and 34 of Indian Penal Code.

2. Learned counsel appearing for applicant submitted that no offence under section 420 of IPC is made out against the applicant. It is submitted that directions issued by Supreme Court in case of *Arnesh Kumar Vs. State of*

Bihar reported in 2014 (8) SCC 273 will be applicable in the case. In these circumstances, respondents may be directed to follow the directions issued by Apex Court in the case **Arnesh Kumar** (supra)

3. Learned Govt. Advocate appearing for the State do not object to the said proposition and submitted that case of **Arnesh Kumar** (supra) will be applicable if sentence is less than 7 years and respondents are duty bound to comply with orders of Apex Court.

4. Heard learned counsel for the parties.

5. Supreme Court in case of **Arnesh Kumar** (supra) has given following directions :-

"11. Our endeavour in this judgment is to ensure that police officers do not arrest accused unnecessarily and Magistrate do not authorise detention casually and mechanically. In order to ensure what we have observed above, we give the following direction:

11.1. All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, Cr.PC;

11.2. All police officers be provided with a check list containing specified sub- clauses under Section 41(1)(b)(ii);

11.3. The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

11.4. The Magistrate while authorising detention of the accused shall peruse the report furnished

by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

11.5. The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;

11.6. Notice of appearance in terms of Section 41A of Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;

11.7. Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.

11.8. Authorising detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court."

6. Considering aforesaid circumstances, bail application filed by applicant is *disposed off* directing Investigating Officer concerned to comply with directions issued by the Apex Court, mentioned above, in case of **Arnesh Kumar** (supra).

7. Applicant is directed to appear before the trial court at the time of filing of charge sheet and to co-operate in investigation of case and will appear before Investigating Officer as and when required for investigation. If applicant does not cooperate in investigation of case, then Investigating Officer is free to act in

accordance with provisions of Criminal Procedure Code and directions issued by Apex Court in the case of **Arnesh Kumar** (supra).

8. With aforesaid direction, bail application is *disposed off*.

Certified copy as per rules.

(VISHAL DHAGAT)
JUDGE

sp/-

