

## Ajay Jatav Vs State Of MP And Anr

**Court:** Madhya Pradesh High Court (Gwalior Bench)

**Date of Decision:** Oct. 21, 2021

**Acts Referred:** Code Of Criminal Procedure, 1973 " Section 439  
Indian Penal Code, 1860 " Section 363, 366, 375(2), 376  
Protection Of Children From Sexual Offences Act, 2012 " Section 5, 6

**Hon'ble Judges:** G.S. Ahluwalia, J

**Bench:** Single Bench

**Advocate:** Awdhesh Sharma, BPS Chauhan

**Final Decision:** Dismissed

### Judgement

G.S. Ahluwalia, J

This fifth application under Section 439 of Cr.P.C. has been filed for grant of bail. Fourth application was dismissed on merits by order dated

31.07.2021 passed in M.Cr.C. No. 37188/2021.

The applicant has been arrested on 31.01.2021 in connection with Crime No.240/2019 registered at Police Station Rannod Distt. Shivpuri for offence

under Sections 363, 376, 366 of IPC and Section 5/6 of POCSO Act.

It is submitted by the counsel for the applicant that although this Court while deciding fourth bail application of the applicant by order dated 31.07.2021

passed in M.Cr.C. No.37188/2021 has considered the evidence of the prosecutrix, but thereafter her father had also been examined and in his

evidence, he has stated that the prosecutrix was aged about 17 years and 6 months. It is further submitted that the applicant has married the

prosecutrix.

Per contra, the application is vehemently opposed by the counsel for the State.

The Supreme Court in the case of Independent Thought Vs. Union of India and another reported in (2017) 10 SCC 800, has read down the provision

of exception 2 to Section 375 of IPC and has held that physical relationship with a minor wife, i.e., below the age of 18 years would also come within

the category of rape.

Accordingly, in absence of any change in circumstance, no case is made out for grant of bail.

The application fails and is hereby dismissed.