
Atendra Singh Gurjar Vs State Of M.P

Miscellaneous Criminal Case No.63559 Of 2021

Court: Madhya Pradesh High Court (Gwalior Bench)

Date of Decision: Dec. 22, 2021

Acts Referred:

Indian Penal Code, 1860 " Section 354, 363, 376D#Protection Of Children From Sexual Offences Act, 2012 " Section 3, 4, 7, 8#Code Of Criminal Procedure, 1973 " Section 161, 164, 439

Hon'ble Judges: Anand Pathak, J

Bench: Single Bench

Advocate: D.K. Sharma, Pramod Pachori, A.K. Upadhyay

Final Decision: Allowed

Judgement

Anand Pathak, J

The applicant has filed this first bail application u/S.439 Cr.P.C for grant of bail. Applicant has been arrested on 08.12.2021 by Police Station-

Bahodapur, District Gwalior in connection with Crime No.775/2021 registered for offence under Sections 354, 363, 376-D of IPC and 3/4 and 7/8 of

POCSO Act.

It is the submission of learned counsel for the applicant that applicant is suffering confinement since 08.12.2021 on false pretext in which allegation of

rape under Section 376-D of IPC has been added later on. It is further submitted by counsel for the applicant that a typed complaint was filed by the

prosecutrix before the police in which allegation for the offence under Section 354 and 363 of IPC were referred and that allegations continued in

statements under Section 161 and 164 of Cr.P.C.. Later on in another statement under Section 164 of Cr.P.C., she improvised the statement and

allegations of rape were added. This itself shows the nature of allegation and motive because medical report belies the allegation and no injury has

been sustained by the victim. Confinement amounts to pretrial detention. Applicant does not bear any criminal record. He undertakes to cooperate in

trial and shall not be a source of harassment and embarrassment to the complainant party in any manner. On these grounds, prayer for bail has been

made.

Learned counsel for the State opposed the prayer but fairly submitted that for the first time allegations of rape figured in subsequent statement under

Section 164 of Cr.P.C.

Learned counsel for the complainant opposed the prayer and prayed for dismissal.

Heard learned counsel for the parties at length and considered the arguments advanced by them.

Considering the submissions and the arguments advanced by counsel for the parties, without commenting on the merits of the case, this Court intends

to allow the present application and it is hereby directed that the applicant shall be released on bail on his furnishing personal bond of Rs.50,000/-

(Rupees Fifty Thousand only) with one solvent surety on the like amount to the satisfaction of trial Court.

This order will remain operative subject to compliance of the following conditions by the applicant:-

1. The applicant will comply with all the terms and conditions of the bond executed by him;
2. The applicant will cooperate in the investigation/trial, as the case may be;
3. The applicant 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 applicant shall not commit an offence similar to the offence of which he is accused;
5. The applicant shall regular appear in the trial Court and shall not seek unnecessary adjournments during the trial; and;
6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.
7. Applicant shall not be a source of embarrassment and harassment to the complainant party in any manner and shall not move in her vicinity.

Application stands allowed and disposed of.

Copy of this order be sent to the trial Court concerned for compliance from the office of this Court.

Certified copy as per rules/directions.