
Mangal Singh Vs State Of Madhya Pradesh And Others

Miscellaneous Criminal Case No. 27449 Of 2023

Court: Madhya Pradesh High Court (Gwalior Bench)

Date of Decision: June 28, 2023

Acts Referred:

Code Of Criminal Procedure, 1973 " Section 437(3), 439#Indian Penal Code, 1860 " Section 120B, 376, 376(D)(B)#Protection Of Children From Sexual Offences Act, 2012 " Section 5(l), 5(n), 5(j)(ii), 6, 16, 17#Juvenile Justice (Care And Protection Of Children) Act, 2015 " Section 75

Hon'ble Judges: Satyendra Kumar Singh, J

Bench: Single Bench

Advocate: Akhand Pratap Singh, Kuldeep Singh

Final Decision: Disposed Of

Judgement

Satyendra Kumar Singh, J

This is first application filed under Section 439 of Cr.P.C for grant of bail to the applicant as he has been arrested on 29.05.2023 in connection with

Crime No.12/2023 registered at Police Station Mahila Thana, District Bhind for the offence punishable under Sections 376, 376(D)(B), 120-B of IPC

and Section 5(l), 5(n), 5(j)(ii) read with Section 6,16,17 of POCSO Act and Section 75 of Juvenile Justice Act.

Prosecution case, in brief, is that, applicant being step-father of minor prosecutrix aged about 15 years kept her as his wife and in between 20.01.2020

and 28.05.2023 committed rape upon her repeatedly due to which she got pregnant and delivered a child.

Learned counsel for the applicant submits that it is apparent from the FIR itself that the prosecutrix herself lived with the applicant as his wife for a

long period. She was major at that time, as there is nothing on record about her age except Adhar Card. No offence is made out against the applicant.

The co-accused-Mamta, who is the mother of prosecutrix, has already been enlarged on bail vide order dated 21.06.2023 passed in M.Cr.C.

No.24283/2023. The applicant is in custody since 29.05.2023 and the trial will take time to conclude, therefore, in the aforesaid circumstances,

applicant is entitled for grant of bail.

Learned counsel for the respondent/State has vehemently opposed the prayer and submits that the prosecutrix was minor girl and she was subjected

to forceful sexual intercourse for a long period. The offence alleged against applicant is serious in nature, therefore, he is not entitled for bail, but he

fairly conceded that there is nothing else except the Adhar Card regarding age of the prosecutrix.

Heard the learned counsel for both the parties.

Having considered rival submissions, nature of allegations alleged against the applicant in the FIR and the evidence produced on record with regard to

age of prosecutrix and other facts and circumstances of the case, without expressing any opinion on the merits of the case, this Court is of the view

that the applicant deserves to be enlarged on bail, hence the application is allowed.

It is directed that the applicant be released on bail upon his furnishing personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with a

solvent surety in the like amount to the satisfaction of the concerned Court for his appearance before the Trial Court on all such dates as may be fixed

in this behalf by the Trial Court during the pendency of trial. It is further directed that applicant shall comply with the provisions of Section 437 (3) of

Cr.P.C.

M.Cr.C. stands disposed of, accordingly.

Certified copy, as per Rules.