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**M.Cr.C.No. 29708-2021**

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**THE HIGH COURT OF MADHYA PRADESH, INDORE BENCH**

**Single Bench : Hon'ble Shri Justice Subodh Abhyankar**

**Miscellaneous Criminal Case No.29708/2021**

(Abhishek Chouhan s/o Kailash Chouhan vs. State of Madhya Pradesh)

1	Case No.	M.Cr.C.No.29708 of 2021
2	Parties Name	Abhishek Chouhan s/o Kailash Chouhan vs. State of Madhya Pradesh
3	Date of Order	03 <sup>rd</sup> of August, 2021
4	Bench constituted of Hon'ble Justice	Single Bench Hon'ble Shri Justice Subodh Abhyankar
5	Order passed by	Hon'ble Shri Justice Subodh Abhyankar
6	Whether approved for reporting	<b>Yes</b>
7	Name of counsel for the parties	Shri Umesh Sharma, learned counsel for the applicant.  Shri S.R. Saxena, learned Dy. Advocate General for the respondent/State.
8	Law laid down	1. It is held that, in majority of the cases of rape, the defence of the accused is that the prosecutrix was a consenting party and in most of the cases the accused gets the benefit of doubt also, but in the considered opinion of this Court, barring some exceptions, India are a conservative society, it has not yet reached such level (advance or lower) of civilization where unmarried girls, regardless of their religion, indulge in carnal activities with boys just for the fun of it, unless the same is backed by some future promise/assurance of marriage and to prove her point, it is not necessary every time for a victim to try to commit suicide as in the present case.  2. It is also held that, a boy who is entering into a physical relationship with a lass must realize that his actions have consequences and should be ready to face the same as it is the girl who is always at the receiving end because it is she who runs the risk of being pregnant and also her ignominy in the society, if her relationship is disclosed.
9	Significant paragraph	06 & 07

**(Subodh Abhyankar)**  
**Judge**

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THE HIGH COURT OF MADHYA PRADESH, INDORE BENCH

M.Cr.C.No.29708-2021

(Abhishek Chouhan s/o Kailash Chouhan vs. State of Madhya Pradesh )

**Indore, Dated: 03/08/2021**

Heard through Video Conferencing.

Shri Umesh Sharma, learned counsel for the applicant.

Shri S.R. Saxena, learned Dy. Advocate General for the respondent/State.

1. This is the applicant's **first** bail application under Section 439 of Criminal Procedure Code, 1973 for grant of bail during the trial.
2. The applicant is implicated in connection with Crime No.489/2021 registered at Police Station- Mahakaal, District-Ujjain (MP) for offence punishable under Sections 376, 376(2)(N), 366 of the I.P.C. and under Sections 3, 4,5-I, 6 of the Prevention of Children from Sexual Act. The applicant is in jail since 04.06.2021.
3. The allegation against the applicant is that he committed rape on the prosecutrix on the pretext of marriage.
4. Counsel for the applicant has submitted that the applicant and the prosecutrix had an affair since last around two years and both of them are students. It is further submitted that the prosecutrix entered into physical relationship with the applicant on her own free will as she is aged around 21 years and has falsely stated that the incident has taken place around three years ago,

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only under the pressure of prosecutrix' family members. Counsel has further submitted that the parents of the prosecutrix and the applicant were opposed to their marriage as both of them are from different religion as the applicant is a Hindu whereas the prosecutrix is a Muslim. In such circumstances, it cannot be said that the applicant has committed rape on the prosecutrix.

5. Counsel for the respondent/State, on the other hand, has opposed the prayer and it is submitted that no case for grant of bail is made out as the applicant has repeatedly committed rape on the prosecutrix on the pretext of marriage since October 2018 and subsequently he refused to marry her and informed her on 1.6.2021 at around 12 o'clock in the night that his marriage is fixed to some other place and hence he cannot marry her as a result of which led the prosecutrix to attempt to commit suicide by consuming phenyl and this fact is also disclosed in her dying declaration dated 2.6.2021 but fortunately she survived.

6. On due consideration of the rival submissions and on perusal of the case diary, this Court does not find it to be a fit case for grant of bail as apparently the applicant has allured the prosecutrix to enter into a physical relationship on the pretext of marriage despite knowing fully well that both of them are from different religion. This Court has observed that in majority of the cases of rape, the defence of the accused is that the prosecutrix was a

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consenting party and in most of the cases the accused gets the benefit of doubt also, but in the considered opinion of this Court, barring some exceptions, India are a conservative society, it has not yet reached such level (advance or lower) of civilization where unmarried girls, regardless of their religion, indulge in carnal activities with boys just for the fun of it, unless the same is backed by some future promise/assurance of marriage and to prove her point, it is not necessary every time for a victim to try to commit suicide as in the present case. This Court is also of the considered opinion that a boy who is entering into a physical relationship with a lass must realize that his actions have consequences and should be ready to face the same as it is the girl who is always at the receiving end because it is she who runs the risk of being pregnant and also her ignominy in the society, if her relationship is disclosed. You just cannot plead consent on the part of the prosecutrix and laugh all the way to your home.

7. In the case on hand, the prosecutrix has tried to commit suicide which apparently shows that she was serious about the relationship and it cannot be said that she entered into the relationship only for enjoyment. In such circumstances, this Court is not inclined to allow the present bail application.

8. Accordingly, the present M.Cr.C. stands **dismissed**. However, liberty is reserved to the applicant to renew his prayer

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after the prosecutrix is examined in the trial court.

Certified copy, as per rules.

**(SUBODH ABHYANKAR )  
JUDGE**

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