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THE HIGH COURT OF MADHYA PRADESH
M.Cr.C. No. 41704 /2021
(Mangilal Vs. State of MP)

Indore, Dated: 25/8/2021

Shri Nilesh Dave learned counsel for the applicant.

Shri Jayesh Vyas learned Panel Lawyer, for the respondent/State.

Both the parties heard. Case diary perused.

This is first application under Section 439 of the Code of Criminal Procedure, 1973. The applicant is in Jail since 22.5.2021 in connection with Crime No. 287/2021 registered at P.S. Sardarpur District Dhar for commission of offence punishable u/S 376, 506 of IPC.

As per prosecution story, the present applicant Mangilal who appears to be an exorcist (Jhaad Foonk karnevala ojha) and prosecutrix, a young married lady of 20 years was feeling unwell before the date of incident. On the date of incident i.e. 18.8.2020 in the night time at village Khamaliya husband of prosecutrix and her maternal-uncle-in-law Govind took prosecutrix for the purpose of exorcism before the applicant Mangilal. Then in the midnight applicant took them at cremation ground (place of burial) and stopped her husband and maternal-uncle-in-law near the drain (that place was far from place of incident). Then applicant took off cloths of prosecutrix and committed rape upon her. Applicant threatened the prosecutrix that if she will disclose the incident to anyone, he will kill her alongwith his family members. Prosecutrix did not disclose the incident to any one for 8 months because of fear and threat given by applicant. After 9 months, she narrated the

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incident to her mother Kalibai and cousin Kanha. On 20.5.2021 the prosecutrix approached the police and launched an FIR against the applicant. On the basis of that FIR, a crime under Section 376 and 506 of IPC has been registered against the applicant.

Learned counsel for the applicant submits that prosecutrix is a major married lady aged about 20 years. It is highly unnatural that on the date of incident her husband as well as her maternal-uncle-in-law was there but prosecutrix did not disclose this incident to any of them. The applicant is innocent and he has been falsely implicated in the offence due to dispute between the family members of prosecutrix and applicant. There is no legal evidence to connect the applicant with the alleged offence. Investigation is over and charge sheet has been filed and conclusion of trial is likely to take sufficiently long time. Under the above circumstances, prayer for grant of bail may be considered on such terms and conditions, as this Court deems fit and proper.

Per contra, learned P.L. for respondent – State opposes the bail application and supports the order impugned and prays for rejection of the bail application by submitting that the offence is very heinous in nature and applicant has committed rape upon prosecutrix under the pretext of exorcism, misused his position of respect and confidence of prosecutrix and a civilized society. He further submits that two more offences under Sections 323, 294, 506/34, 427/325/923 in crime No. 923/19 and under Section 294, 323, 506/34 of IPC in crime No. 447/2014 have been registered against the applicant prior to this incident and he is habitual offender.

Perused the impugned order of the trial Court as well as the case diary.

On perusal of the case diary it is revealed that a young unwell girl (prosecutrix) was brought before the exorcist by her husband and other relative for the purpose of treatment of her illness and a man (present applicant) who was in business of cheating to the victims of misfortune and exploiting women under the pretext of carrying out rituals of exorcism, committed rape upon the prosecutrix on the pretext of performing rituals. The statement of prosecutrix under section 164 of Cr.P.C. has been recorded in which she stated that often she felt unwell then her husband and maternal-uncle-in-law took her before applicant who is an exorcist and he has committed rape with her in absence of her husband and other relatives. By way of such statement prosecutrix supported the prosecution case and it reveals that sufficient prima facie evidence is available on record against the applicant.

Considering the facts and circumstances of the case, nature of allegation, criminal background of applicant and the fact that applicant has committed misdeeds by violating respect of a married lady by utilizing his position of respect of being exorcist of evil soul, such a hypocrite exorcist is a stigma to any civilized society, who robs the respect of innocent girl on the pretext of exorcism, in my considered opinion applicant does not deserve for bail.

Hence the bail application filed on behalf of applicant under Section 439 of Cr.P.C. is hereby dismissed.

Certified copy as per Rules.

(Anil Verma)
Judge

BDJ

