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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE ANIL VERMA
ON THE 27th OF JANUARY, 2023
CRIMINAL APPEAL No. 12698 of 2022**

BETWEEN:-

**HASHIM @ ANAS S/O ZAFAR KHAN, AGED ABOUT 19
YEARS, OCCUPATION: LABOUR LINK ROAD, ANUP
NAGAR, INDORE (MADHYA PRADESH)**

.....APPELLANT

(BY MS SONALI RAJORIA - ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH STATION
HOUSE OFFICER THROUGH POLICE STATION
M.I.G. INDORE DISTRICT INDORE (MADHYA
PRADESH)**
- 2. VICTIM X THROUGH POLICE STATION M.I.G.
INDORE DISTRICT INDORE (MADHYA PRADESH)**

.....RESPONDENTS

**(SHRI HARSHAD GUPTA - ADVOCATE FOR OBJECTOR).
(SHRI SUDHANSHU VYAS - PANEL LAWYER FOR RESPONDENT/STATE)**

*This appeal coming on for admission this day, the court passed the
following:*

ORDER

This is the first criminal appeal under Section 14-A(2) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 filed on behalf of the appellant for grant of bail. The appellant is in custody since 2.9.2022 in connection with Crime No. 637/2022 registered at Police Station M.I.G. Indore District Indore (M.P.) for commission of offence punishable under section 376, 376(2)(k) of IPC and Section 3(20)(5) of SC/ST Act and

section 3 & 5 of MP Freedom of Religion Act.

As per prosecution story, the prosecutrix known the present applicant one year prior to incident but she does not know the religion of applicant. On 27.8.2022 there was some quarrel taken place between prosecutrix and her family members and she disclosed the same fact to the applicant, then applicant told her that they will go and live in Delhi and on the pretext of marriage, the prosecutrix went to Delhi with applicant and applicant committed rape upon prosecutrix and when the applicant brought the prosecutrix to Dargah then prosecutrix first time came to know that real name of applicant is Mohammad Hasim and he belongs to Muslim religion and applicant also pressurized the prosecutrix for her conversion into Muslim religion. Any how aggrieved prosecutrix returned to Indore and lodged FIR at police station MIG Road Indore. Accordingly, offence has been registered against the appellant.

Learned counsel for the appellant submits that the appellant is an innocent person and he has been falsely implicated in this offence. He is in custody since 2.9.2022. Investigation is over and charge sheet has been filed, appellant is permanent resident of District Indore and final conclusion of the trial is likely to take sufficient 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 counsel for the respondent / State opposes the criminal appeal and prays for its rejection by submitting that this is a heinous offence relates to rape and conversion of religion.

Counsel for objector also opposes the bail application and prays for its rejection by submitting that applicant has committed fraud with the prosecutrix by impersonating him as Hindu and family members of applicant are

pressurizing and threatening them for changing their statement hence applicant does not deserve for bail.

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

After considering all the facts and circumstances of the case, nature and gravity of offence, it is revealed that prosecutrix in her statement under section 164 of Cr.P.C. categorically stated that applicant has established physical relationship with her by impersonate as a Hindu on the pretext of marriage and pressurized her for converting herself into Muslim Religion, the prosecutrix belongs to Schedule Caste also. The applicant did not raise any plea in the bail petition that prosecutrix was consenting party and established physical relationship with her own accord. Such type of offences are increasing day by day and also dangerous for communal harmony in the society.

In view of the prima facie evidence available on record, this court is not inclined to grant bail to applicant.

Hence M.Cr.C. filed by applicant under section 439 of Cr.P.C. is hereby dismissed.

Certified copy as per rules.

(ANIL VERMA)
JUDGE

BDJ