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HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE

M.Cr.C. No.45825/2021

**Golu @ Tasneem @ Taslim v/s The State of Madhya Pradesh
Indore, dated 07.12.2021**

Shri Ehtesham Hashmi, learned counsel for the applicant.

Shri Aditya Garg, learned Government Advocate for the respondent / State.

Shri Manish Gupta, learned counsel for the objector.

With the consent, finally heard.

This is the first application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail in connection with Crime No.1119/2021 registered at Police Station – Banganga, District – Indore for the offence registered under Sections 354, 354-A, 467, 468, 471, 420, 506 of the Indian Penal Code & Section 7/8 of the Protection of Children from Sexual Offences Act.

Learned counsel for the applicant submits that applicant is in custody since 23.08.2021. Challan has been filed. The applicant is the first offender. The applicant while selling the bangles was abused, threatened and assaulted by certain hooligans on 23.08.2021. The applicant lodged a report at Police Station – Banganga, Indore on 23.08.2021 at 13:45. As a counterblast, the person, who threatened the applicant have cooked up a story that applicant while selling the bangles has sexually assaulted a minor girl. As an afterthought, a cross F.I.R. was lodged on the same date i.e. 23.08.2021 at 6:00 pm.

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Learned counsel for the applicant submits that his custodial interrogation is no more required. The incriminating material is already in possession of the prosecution. The applicant will not tamper the evidence or witness. Hence, applicant may be enlarged on bail.

The prayer is opposed by learned Government Advocate for the respondent / State by contending that the F.I.R. and the documents filed with the challan shows that from applicant various Adhar / Identity Cards of different identity were recovered.

Learned counsel for the objector also by placing reliance on the said story submits that if in this backdrop the applicant is granted bail, he may flee from justice and it will be difficult for the prosecution to recover him. He further submits that during the pendency of this application certain unknown persons threatened the complainant, and therefore, if bail is granted to the applicant, it may be misused.

In rejoinder submission, Shri Hashmi placed reliance on certain photographs filed with the application and urged that applicant was badly beaten by the hooligans. He prayed that CD filed along with the application may also be perused which will separate the wheat from chaff and will make it clear as to who has actually committed the offence.

In support of aforesaid submission, Shri Hashmi placed reliance on *(2012) 1 SCC 40 (Sanjay Chandra v/s CBI)*, *2020 SCC OnLine MP 3464 (Shivam v/s The State of Madhya*

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Pradesh), 2020 SCC OnLine MP 3697 (Halkai Kushwaha v/s The State of Madhya Pradesh), 2020 SCC OnLine MP 1500 (Shiv Shankar Pal v/s The State of Madhya Pradesh), 2020 SCC OnLine MP 78 (Arvind v/s The State of Madhya Pradesh), 2019 SCC OnLine MP 4446 (Manoj Shivhare v/s The State of Madhya Pradesh), 2019 SCC OnLine All. 3006 (Dudhai Banbasi v/s The State of U.P.), 2016 SCC OnLine Raj. 8853 (Arvind v/s The State of Rajasthan) and 2019 SCC OnLine Ker. 2181 (Binu v/s The State of Kerela).

I have heard the parties at length and perused the record.

Indisputably, the applicant's F.I.R. is prior in time on 23.08.2021. As per prosecution story, the applicant was asked to show his identity card and in furtherance thereof, he has shown his identity card and disclosed his identity as Golu S/o Mohar Singh. However, when the alleged incident of touching the minor girl with improper motive had taken place and the prosecutrix allegedly screamed / shouted, the applicant fled away. Upon examining his bag, it was found that a different identity card is available showing his name to be Asleem S/o Mohar Singh. The F.I.R. also shows that on the strength of these documents the prosecution reached his original residence in U.P. wherein the applicant was found to be residing in a 'Pradhanmantri Awas Yojna' house wherein his name is shown as Asleem S/o Mohar Singh. This F.I.R. shows that the prosecution has already reached the permanent residence of applicant. Thus, question of applicant's fleeing from justice does

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not arise. The nature of accusation is not such which leads to a conclusion that applicant should remain in custody till decision of the matter. No criminal antecedents of the applicant could be shown to this Court. There is no material to show that applicant was instrumental in threatening the persons / complainant etc.

Considering the nature of accusation and in absence of any criminal record, I deem it proper to enlarge the applicant on bail. Accordingly, the bail application is allowed.

The applicant is directed to be enlarged on bail on his furnishing personal bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand Only)** with one local surety of the like amount to the satisfaction of the trial Court for his appearance as and when directed. He shall abide by the conditions enumerated under Section 437(3) of the Cr.P.C.

The applicant will attend each hearing of his trial before the trial Court out of which this bail arises. Any default in the attendance in Court would result in cancellation of the bail granted by this Court.

With the aforesaid, the application stands disposed of.

Certified copy, as per Rules.

(SUJOY PAUL)
J U D G E

Ravi

Digitally signed by RAVI PRAKASH
Date: 2021.12.07 17:47:34 +05'30'