

IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 6th OF APRIL, 2022

MISC. CRIMINAL CASE No. 14870 of 2022

Between:-

AHMED FAIZ

.....APPLICANT

(BY SHRI PEYUSH JAIN, ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH STATION
HOUSE OFFICER THROUGH POLICE STATION
M.G. ROAD (MADHYA PRADESH)**

.....RESPONDENT

(BY SHRI A. S. SISODIYA, G.A.)

*This application coming on for orders this day, the court
passed the following:*

ORDER

They are heard. Perused the case-diary.

This is the **first** bail application under Section 439 of Criminal Procedure Code, 1973, as he is implicated in connection with Crime No.31/2022 registered at Police Station M. G. Road, Indore District – Indore (MP) for offence punishable under Sections 376, 376(2)(n) & 328 of IPC; Sections 3 & 5 of M.P. Freedom of Religion Act and Section 66 (e) of I. T. Act. The applicant is in custody since

22.01.2022.

The allegation against the applicant is that he committed the rape with the prosecutrix and also posed himself as Hindu, despite being a Muslim and also sent objectionable video clips of the prosecutrix to her fiance, which has led to cancellation of her marriage.

The applicant, prior to his arrest was working in a multinational company Accenture at Bangalore. His placement letter is also placed on record. Counsel for the applicant has submitted that the applicant has been falsely implicated in the case as he and the prosecutrix were friends since many years as both of them have completed Degree in Law from Government Law College, Dewas and the applicant had also made a transaction of Rs.9,604/- to the Principal of Govt. Law College, Dewas towards the payment of fees of the prosecutrix. A copy of the transaction slip is also placed on record.

Counsel has also submitted that the applicant is an educated young man and after completion of law and had pursued Company Secretary course by joining Nahta Institute, Indore in the year 2019 wherein the prosecutrix was also studying. It is further submitted that the applicant and the prosecutrix were having intimate relationship, which is also apparent from the various screenshot of the Instagram/ chats filed on record. It is submitted that the prosecutrix was also aware of the applicant's password of the Instagram account and had herself sent video clips to her fiance only with a view to cancel her marriage and it is only under the pressure of her parents, that the

applicant has been arrested. Counsel has submitted that charge-sheet has also been filed and the final conclusion of trial is likely to take sufficient long time. Hence, it is prayed that the applicant be released on bail.

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 had sent objectionable video clips to the fiance of the prosecutrix, which act of the applicant does not allow him to be released on bail as it shows his ill intentions that he can go to any extent to harm the prosecutrix.

Heard counsel for the parties and perused the record.

On 26.03.2022, counsel for the applicant had submitted that the messages and the photographs which are alleged to have been sent by the present applicant to the person with whom the complainant/prosecutrix was engaged, has been sent by the complainant/prosecutrix herself as she was well aware of the password of the 'Instagram' of the present applicant which is also apparent from the charge-sheet. In such circumstances, this Court had directed the counsel for the respondent/State to take proper instructions regarding the aforesaid contentions raised by counsel for the applicant and find out from which IP Address the messages have been sent and whether the complainant was also involved in aforesaid forwarding of messages.

Thereafter on 01.04.2022 when the matter came up for hearing, Counsel for the respondent/State again sought further 15 days time,

however, this Court, considering the fact that the applicant was lodged in jail since 22.01.2022, directed the case to be listed on 06.04.2022, and today again counsel for the respondent/State has submitted that he could not verify the aforesaid aspect of the matter which would take 15 days time.

Be that as it may. On due consideration of various screenshot of the Instagram chats, this Court is of the *prima facie* opinion that the prosecutrix was aware of the religion of the applicant and considering the fact that the final disposal of the trial is likely to take sufficient long time, this Court is inclined to allow the present application as State has also not been able to answer the query made to the Counsel for the respondent/State.

In the considered opinion of this Court, this aspect of the matter ought to have been verified by the State itself preferably prior to arresting the applicant and even otherwise, during the course of investigation. In such circumstances, this court is inclined to allow the present application.

Accordingly, without commenting on the merits of the case, the application filed by the applicant is allowed. The applicant is directed to be released on bail upon furnishing a personal bond in the sum of **Rs.50,000/- (rupees fifty thousand)** with one solvent surety of the like amount to the satisfaction of the trial Court for his/her regular appearance before the trial Court during trial with a condition that he / she shall remain present before the court concerned during trial and shall also abide by the conditions enumerated under Section 437 (3)

Criminal Procedure Code, 1973.

It is also observed that after his release on bail the applicant shall also not try to contact the prosecutrix in any manner. If the applicant is again found to be involved in any criminal activity, then the present bail order shall stand cancelled without further reference to this Court; and the State / prosecution will be free to arrest the accused in the present case also.

This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Certified copy as per rules.

(SUBODH ABHYANKAR)
JUDGE

Pankaj