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

**BEFORE
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

ON THE 4th OF JANUARY, 2023

MISC. CRIMINAL CASE No. 60179 of 2022

BETWEEN:-

**NAVEEN @ KARAN BHAIYYU S/O SURESH SISODIYA,
AGED ABOUT 26 YEARS, OCCUPATION: LABOUR
SURYADEV NAGAR INDORE (MADHYA PRADESH)**

.....APPLICANT

(SHRI ASHISH GUPTA, LEARNED COUNSEL FOR THE APPLICANT.)

AND

**THE STATE OF MADHYA PRADESH STATION HOUSE
OFFICER THROUGH POLICE STATION VIJAY NAGAR
DISTRICT INDORE (MADHYA PRADESH)**

.....RESPONDENT

***(SHRI SANJAY KARANJAWALA, LEARNED GOVERNMENT ADVOCATE
ALONG WITH SHRI TARUN PAGARE, LEARNED COUNSEL APPEARING
ON BEHALF OF ADVOCATE GENERAL.)***

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

ORDER

They are heard. Perused the case diary / challan papers.

This is the applicant's repeat (**SECOND**) application under Section 439 of Criminal Procedure Code, 1973, as he / she is arrested in connection with Crime No.772/2020 registered at Police Station Vijay Nagar, Indore, District Indore (MP) for offence punishable under Sections 365, 366, 347, 384, 386, 392, 394 and 376 (D) of Indian Penal Code, 1860 and also under Section 66 of the Information Technology Act, 2000. His earlier **FIRST** bail application MCRC No.39419/2022 has already been dismissed by this Court as withdrawn

vide order dated 03.09.2022 and the learned Judge of the trial Court was also directed to expedite the trial and conclude it as early as possible.

The applicant is in custody since 22.09.2020.

Counsel for the applicant has submitted that there are two prosecutrixes in the present case and both of them have not turned up in the trial Court; and in fact, the Mumbai addresses given by them were also found to be false.

Counsel has also submitted that both the prosecutrixes are not appearing in the trial Court since last two years and even arrest warrants issued by the trial Court have not been tried to be served by the concerned Police Station, despite the fact that it was specifically directed that to positively serve the warrants on the prosecutrixes, but as the concerned Police Station has failed to carry out the instructions issued by the trial Court.

Counsel has further submitted that even otherwise, the entire story of the prosecution is dubious as the doctor has already been examined in the trial Court, who has clearly stated that there was no injuries suffered by any of the prosecutrixes, either internal or external. Thus, it is submitted that the applicant is in jail since 22.09.2020 and the final conclusion of the trial is likely to take sufficiently long time, the application be allowed and the applicant be released on bail.

Counsel for the respondent / State, on the other hand, has opposed the prayer.

On due consideration of the rival submissions and perusal of the case diary as also the documents filed on record and also status report, it is apparent that arrest warrants have been issued by the trial Court to procure the presence of both the prosecutrixes and prior to that various attempts were also made to

secure their presence by issuance of summons andailable warrants, in such circumstances and considering the medical evidence available on record, this Court is inclined to allow the application, as the applicant cannot be kept in jail for an indefinite period, especially when the prosecutrixes have not turned up to depose in the trial Court.

In view of the same, the application deserves to be allowed.

Accordingly, without adverting to the merits of the case, the application filed by the applicant is hereby **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, if the applicant is found in any criminal activities, the learned judge of the trial court shall, after giving an opportunity of hearing to the applicant, be at liberty to cancel this bail order without further reference to this Court.

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