

Ram Singh Kewat vs The State Of Madhya Pradesh on 16 October, 2023

Author: Sanjeev S Kalgaonkar

Bench: Sanjeev S Kalgaonkar

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IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE
HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR
ON THE 16 th OF OCTOBER, 2023
MISC. CRIMINAL CASE No. 22655 of 2023

BETWEEN: -
RAM SINGH KEWAT S/O SHRI KALLU KEWAT, AGED
ABOUT 40 YEARS, OCCUPATION: LABOUR GRAM
NARKHEDA GHAT THANA NATERAN (MADHYA
PRADESH)

(SHRI ANSHU GUPTA, LEARNED COUNSEL),

AND
THE STATE OF MADHYA PRADESH INCHARGE POLICE
STATION THROUGH POLICE STATION MAHILA POLICE
THANA VIDISHA (MADHYA PRADESH)

(SHRI RAMADHAR CHOUBEY, LEARNED PP),

This application coming on for HEARING this day, the court
the following:

ORDER

I.A.No.19395 of 2023 is filed for taking documents on record. Heard. Considered.

Allowed.

This first bail application has been filed by applicant under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail in connection with Crime No.1/2023 registered at Police Station Mahila Police Thana, District Vidisha (M.P.), for an offence punishable under Sections 376, 376(2)(n), 376(2) (f), 376(2) (i), 506, 323 of IPC, 3/4, 5/6, 5 (10)/6, 5(n)/6, 5(j) (II)/6 of POSCO Act and 75 of Juvenile Justice (Care and Protection) Act 2015.

As per the case of prosecution, victim aged around 13 years reported to SHO, PS Mahila Vidisha at One Stop Centre on 18.012023, that she is studying in Class 7 and residing at Jambar Bagri Hostel.

Her elder brother had admitted her in the hostel as her mother had left matrimonial home and married elsewhere. Her brother had taken her on 18.09.2022 to village Narkheda Ghat, her paternal aunt's house. Accused Ram Singh is elder son of her paternal aunt. Accused Ram Singh used to commit rape on her. Accused Ram Singh threatened to kill her, therefore, she had not informed anybody. On 09.11.2022, her brother left her at the hostel. Superintendent of Hostel on doubt got her medically examined. She was found pregnant. On such allegations, PS Women Cell registered FIR at Crime No.1 of 2023 for offence punishable Sections 376, 376(2)(n), 376(2) (f), 376(2) (i), 506, 323 of IPC, 3/4, 5/6, 5 (10)/6, 5(n)/6, 5(j) (II)/6 of POSCO Act and 75 of Juvenile Justice (Care and Protection) Act 2015. Statement of victim was recorded under Sections 161 and 164 of Cr.P.C. Statements of other witnesses have been recorded. Accused was arrested on 19.01.2023. The accused and the victim were medically examined. On request of mother, abortion of the victim was carried in due compliance with the procedure. Fetus and placenta were preserved and forwarded for DNA examination along with blood sample of the victim and accused. On completion of investigation, charge sheet was filed.

Learned counsel for the applicant submits that the applicant is falsely implicated due to family dispute and altercation between brother of the victim and the applicant. Statements of victim and other material witnesses have been recorded by the trial Court, therefore, there is no likelihood of tampering with the investigation or evidence. The applicant is an agriculturist by profession and has a family to look after, therefore, there is no likelihood of his absconding leaving family and agricultural property.

Learned counsel further contends that the DNA finger print report has given conclusive finding that although the victim is biological mother of the fetus but accused Ram Singh is not biological father of the fetus aborted by the victim. Therefore, the DNA report falsifies the allegation of sexual assault by accused Ram Singh. No criminal antecedent is reported against the applicant. Jail incarceration is causing hardship to the applicant and his family. The trial would take time to complete. Therefore, applicant may be extended the benefit of bail.

Per contra, learned counsel for the State opposes the bail application and submits that the victim aged around 13 years got pregnant due to sexual assault, therefore, the applicant may not be granted bail.

Heard learned learned counsel for the parties and perused the case diary. Considering the arguments advanced by both the parties and overall circumstances of the case, but without commenting on merits of the case, this Court is inclined to release the applicant on bail. Thus, the application is allowed.

Accordingly, it is directed that the applicant Ram Singh Kewat shall be released on bail in connection with Crime No.1/2023 registered at Police Station Mahila Police Thana, District Vidisha (M.P.), for an offence punishable under Sections 376, 376(2)(n), 376(2) (f), 376(2) (i), 506, 323 of IPC, 3/4, 5/6, 5 (10)/6, 5(n)/6, 5(j) (II)/6 of POSCO Act and 75 of Juvenile Justice (Care and Protection) Act 2015, upon furnishing a personal bond in the sum of Rs.50,000/- (Rs. Fifty thousand Only) with one solvent surety of the same amount to the satisfaction of the Trial Court, for

compliance with the following conditions, :

1. The applicant shall remain present on every date of hearing as may be directed by the concerned Court;
2. The applicant shall not commit or get involved in any offence of similar nature;
3. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them/him/her from disclosing such facts to the Court or to the investigating officer;
4. The applicant shall not directly or indirectly attempt to temper with the evidence or allure, pressurize or threaten the witness;
5. The applicant shall ensure due compliance of provisions of Section 309 of Cr.P.C regarding examination of witness in attendance;

This order shall be effective till the end of trial. However, in case of breach of any of the pre-condition of bail, it shall become ineffective without reference to the Court.

CC as per rules.

(SANJEEV S KALGAONKAR) JUDGE Rks