

Rajendra Thakkar vs The State Of Madhya Pradesh on 13 February, 2020

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Bench: Shailendra Shukla

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HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE
MISC. CRIMINAL CASE NO.3316 OF 2020
(Rajendra Thakkar vs State of Madhya Pradesh)

Indore, Dated 13.02.2020

Mr. Sunil Gupta, learned counsel for the applicant.

Mr. Gaurav Verma, learned public prosecutor for the
non-applicant/State.

Mr. Deepak Rawal, learned counsel for the
complainant/objector.

Arguments heard.

ORDER

This is the first bail application filed by the applicant- Rajendra Thakkar under Section 439 of Code of Criminal Procedure, 1973 for grant of bail in connection with Crime No.154/2019 registered at Police Station-Mahila Thana, District-Indore (MP) for the offence punishable under Sections 376, 376(D), 377, 342, 323, 506/34 of Indian Penal Code, 1860 and Section 66-D of Information Technology Act, 2000.

The prosecution story was that a report was lodged by complainant-Leena W/o Rajendra Thakkar (present applicant) in Mahila Police Station-Indore on 14.12.2019 as per which the marriage of the complainant with Rajendra Thakkar had taken place in the year 2014. It was the second marriage of the complainant whose earlier husband had died. As per the complainant, her husband i.e. the present applicant-Rajendra Thakkar and other co-accused namely; Jitu Soni and one another person had entered into a business called Bakshi Security and Personal Services Private Limited in the year 2013. The complainant submits HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE MISC. CRIMINAL CASE NO.3316 OF 2020 (Rajendra Thakkar vs State of Madhya Pradesh) that she received an information that trio were indulging in dubious activities in the garb of their business involving trafficking of women. In the year 2016, she along with her two children which she had begotten from her first husband were brought from Mumbai to Indore by the present applicant and in the Hotel Best Western at Indore, she was raped by the present applicant and Jitu Soni. She was subjected to unnatural sex as well and the whole incident was video recorded by the present applicant-Rajendra Thakkar. The incident took place on 10.10.2016 from 10:30 pm to 5:00 am on 11.10.2016 and her two children were kept in another room during this period. The complainant could not muster courage to report the matter to the police due to threats meted out to her and her children, as also due to the threat that her video would be made viral. In the complaint, it has been stated that applicant indulges in supplying girls in the garb of his business and human

trafficking racket is being run by the present applicant, Jitu Soni and his other cohorts. These accused persons are also indulging in money laundering and other nefarious activities.

Learned counsel in support of his application filed under Section 439 of Code of Criminal Procedure, 1973 has stated that FIR has been lodged after three years of incident dated 10.10.2016. Learned counsel has drawn court's attention towards number of documents, photographs showing complainant to have gone on leisure trips to exotic destinations with the present applicant such as Hongkong, HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE MISC. CRIMINAL CASE NO.3316 OF 2020 (Rajendra Thakkar vs State of Madhya Pradesh) Dubai, Bangkok in the years 2016 and 2017. It is stated that brother of complainant namely; Tejas Rana who had entered into business agreement with the applicant, had cheated the applicant pursuant to which a case under Section 420 IPC was registered against him and the relations between the complainant and applicant turned sour since then and complainant thereafter lodged spate of complaints such as a case under Sections 498-A, 377 IPC Domestic Violence case, a case under Sections 324, 354-D, 380 IPC etc and in all of them, the present applicant has been released on anticipatory bail.

Learned counsel submits that in none of these reports, the complainant has made any reference to the incident which had taken place in the year 2016. If the complainant could have the courage to report against the applicant, then why she refrained from making allegations pertaining to alleged incident of 10.10.2016. It is also stated that on the same facts, an FIR has already been recorded in Malad Police Station in Mumbai. Learned counsel submits that whole prosecution story as narrated by the complainant is concocted and that there is no reasonable explanation for delay. On these grounds, bail has been sought.

Opposing this application, learned public prosecutor on behalf of the State has submitted that the reason for delay in lodging FIR was the threat meted out to the complainant, that her video containing obscene acts would be leaked and her children would be put to danger. It was stated that the other HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE MISC. CRIMINAL CASE NO.3316 OF 2020 (Rajendra Thakkar vs State of Madhya Pradesh) accused persons were extremely influential and dreaded therefore the complainant could not muster courage to lodge a report against the applicant and other co-accused persons.

Learned public prosecutor for the State has submitted that the video, pen-drive and other material have been sent to FSL which contain material showing involvement of the applicant and other accused persons as per the allegations made by the complainant. The transcript of conversation between the applicant, his associate and other associates showing human trafficking is also placed in the case diary which include the conversations of the applicant with a lady in which the lady has been asked by the applicant to entrap senior Bank Officers / Government Officers so that they may be blackmailed.

Thus, learned counsel has pointed out to the offence of human trafficking attracted against the applicant. It has been stated that the applicant indulged in falsely implicating the brother of the complainant and such implication was after prosecutrix lodged complaint under Section 325, 498A of IPC against the applicant. It was also pointed out that the applicant had indulged in unnatural sex

with the children of the complainant and FIR has been lodged by one of such children against the applicant in 2019. It was also pointed out that the applicant is extremely clever and even while in jail, he had used a forged power of attorney for entering into transactions in Mumbai, on these grounds it has been requested that bail application be rejected.

HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE MISC. CRIMINAL CASE NO.3316 OF 2020 (Rajendra Thakkar vs State of Madhya Pradesh) Learned counsel for the complainant has filed the written objections against the applicant in bail application. It has been stated that the applicant had tried to implicate the complainant and her brother in false cases and video recordings regarding conversations of criminal conspiracy were recorded whose transcript has been furnished for perusal. Learned counsel submits that the complainant had made such arrangements that such video conversations can be transmitted to the mobile phone of complainant and thus complainant was able to know about such conspiracies. Recordings of the applicant with Advocates and touts have also been placed on record showing that applicant was even looking for favourable orders from judicial officers posted at Mumbai. Learned counsel thus opposed the application for bail filed by the applicant.

Considered the rival contentions.

There is indeed a delay in lodging of FIR of 3 years and it also appears that during the period between the incident in 2016 and 2018, when the complainant lodged her first report against the applicant, the complainant had travelled with applicant to exotic destinations along with her children and the photographs prima facie do not reveal any estrangement between complainant and the applicant. However, it appears that after lodging of FIR on 15.5.2018 under Section 325 and 504 of IPC against the applicant, a report was lodged by the applicant against the brother of the complainant on 15.6.2018. This was followed by next complaint against the HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE MISC. CRIMINAL CASE NO.3316 OF 2020 (Rajendra Thakkar vs State of Madhya Pradesh) applicant on 13.7.2018 under Section 498A, 377, 379 of IPC and under Section 67 of I.T. Act. In this case, the applicant was given anticipatory bail. The next FIR lodged by the complainant against the applicant was on 29.1.2019 under Section 354(d), 506(2) and 34 of IPC. In this case also anticipatory bail was granted on 2.7.2019. The fourth FIR was lodged by the complainant on 20.2.2019 against the applicant accusing him of committing theft of Rs.10,000/- from card of complainant. This also resulted in granting of bail to the applicant on 27.2.2019. After this an FIR under Domestic Violence Act was lodged by the complainant against the applicant on 23.4.2019. In this matter, the stay was granted in favour of the applicant. Meanwhile, bail application of the brother of the complainant was rejected.

The present FIR by the complainant is 6th in line and was lodged on 14.12.2019 and on 22.12.2019, her son Shubham has lodged FIR against the applicant which is under Section 377, 509, 506 of IPC and under the provisions of POCSO Act. It does appear that the complainant has lodged litany of FIRs against the applicant and the applicant has been granted bail in almost all the matters. In this background coupled with the aspect of delay in lodging FIR as also there being no sign of estrangement between 2016 to 2018 do tend to dent the credibility of prosecutrix/ complainant to some extent. However, the latest FIR has opened up Pandora's box against the applicant, unraveling

his nefarious activities with other co-accused persons who HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE MISC. CRIMINAL CASE NO.3316 OF 2020 (Rajendra Thakkar vs State of Madhya Pradesh) appear to be partners in crime with the applicant. Thus, the complaint by the prosecutrix has opened up window to new dimensions of crime involving the applicant which are not limited to acts against the prosecutrix only and these dimensions are much more serious in nature. The applicant though granted anticipatory bail in cases earlier lodged by the prosecutrix do not amount to his total vindication. The complaint of prosecutrix regarding her gang rape has been stated to be video graphed and such video is subject matter of investigation and has been sent to the Laboratory. The gravity and ramifications of human trafficking for the purpose of blackmailing persons in position are activities which are serious in nature as they tend to subvert and corrupt public servants through allurements posing grave risk to efficient functioning of State machineries. Looking to such aspects, the relief of bail cannot be afforded to the applicant. The application under Section 439 of Code of Criminal Procedure, 1973 stands rejected.

Arun/SS/-

(SHAILENDRA SHUKLA)
JUDGE