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MCRC-43441-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

ON THE 20th OF NOVEMBER, 2024MISC. CRIMINAL CASE No. 43441 of 2024*BHURA SHAH**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

Shri Gaurav Kumar Verma, learned counsel for the applicant.

Shri Apoorv Joshi GA for the respondent/State.

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ORDER

This first application has been filed by the applicant under Section 483 of BNSS, 2023 for grant of bail in connection with Crime No.514/2024 registered at Police Station - Sonkatch, District - Dewas (M.P.) for offence punishable under Sections 64(2)(f) and 77 of BNS, 2023. Applicant is in judicial custody since 11/08/2024.

As per the case of prosecution, the prosecutrix aged around 35 years reported to police station - Sonkatch that Bhura Mistri (applicant) was doing construction work at her home. He had taken some obscene photographs while she was taking bath. On 29/07/2024, Bhura proposed her and committed rape on her under the threat to make her photos viral. She did not inform anybody fearing social disrepute. On 10/08/2024, Bhura again came to her house and proposed to have physical relations, but she refused and informed her husband and relatives about the incident and came to report. On



such allegation, police station - Sonkatch registered FIR at Crime no. 514/2024 for the offence punishable under Sections 64(2)(f) and 77 of BNS, 2023 against the applicant. The victim was forwarded to medico-legal examination. Applicant Bhura was arrested on 11/08/2024 and he is in custody even since. Mobile phone of the applicant was recovered and seized, it was forwarded to forensic examination. On completion of investigation, final report was submitted.

Learned Counsel for the applicant, in addition to the grounds mentioned in the application, submits that applicant has been falsely implicated in this matter. No offence, as alleged is committed by the applicant. No obscene photograph of the complainant / prosecutrix was recovered from the mobile phone of the applicant. Learned counsel further submits that the applicant is aged around 33 years and is a mason (construction worker) by profession. There is no likelihood of his absconsion or tampering with evidence by him. Further custodial interrogation is not needed in the matter. No criminal antecedent is reported against the applicant. The trial would take time to conclude. Therefore, the applicant may be extended the benefit of bail.

Per contra, learned Counsel for the State opposes the bail application on the ground of gravity of the alleged offence.

Heard 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 **applicant - Bhura** shall be released on bail in connection with the Crime as stated in para – 1 of this order, upon furnishing personal bond and surety bond of amount, as may be considered appropriate by the Trial Court/the Committal Court for compliance with conditions, as may be imposed by such Court, to secure presence of the applicant for the trial under Section 437(3) of Cr.P.C., 1973/Section 480(3) of BNSS, 2023.

This order shall be effective till the end of trial. However, in case of breach of any of the preconditions of bail, the concerned Court may consider, on merit, cancellation of bail without any impediment of this order.

The concerned Court shall get these conditions reproduced on the personal bond by the accused and on the surety bond by the surety concerned. If any of them is unable to write, the scribe shall certify that he had explained the conditions to the concerned accused or the surety.

CC as per rules.

(SANJEEV S KALGAONKAR)
JUDGE