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IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE SANJAY DWIVEDI
ON THE 7th OF FEBRUARY, 2022
MISC. CRIMINAL CASE No. 3716 of 2022

Between:-
SHOBIT NIGAM

.....APPLICANT

(BY SHRI ABHINAV DUBEY, ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH THROUGH
POLICE STATION BARELI DISTRICT- RAISEN
M.P. (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI AJAY SHUKLA, PANEL LAWYER)

(Heard through Video Conferencing)

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

ORDER

This is first application on behalf of applicant under Section 439 of the Code of Criminal Procedure for grant of bail.

Applicant is in custody since 23.10.2021 in connection with Crime No. 329/2021 registered at Police Station Bareli, District Raisen for the offences punishable under Sections 363, 366, 376 (3), 376(2)(n) of the Indian Penal Code and Section 5(L)/6 of the POCSO Act.

Learned counsel for the applicant submits that as per the case of the prosecution, the age of the prosecutrix is below 18 years. He submits that from the statement of the prosecutrix recorded under Section 164 of Cr.P.C. it is clear that she developed the physical relation with the applicant by her own consent/wish. He submits that although the prosecutrix wanted to marry

with the applicant, but some how the marriage could not take place. He submits that the prosecutrix herself has stated that since applicant is not agreeing for marriage, therefore, she wants to prosecute and convict him. He submits that applicant is ready to marry with the prosecutrix, but at present she is a minor and, therefore, marriage is not possible. He also submits that the parents of the prosecutrix are in fact demanding money from the applicant for allowing her to marry with the applicant.

Learned counsel for the respondent-State has opposed the bail application.

Considering the fact that the prosecutrix in her statement recorded under Section 164 has very categorically stated that she has developed the physical relation with the applicant by her own wish and that she is an educated, grown up and sound mind girl and knows her well being and ready to marry with the applicant and that the applicant is an under trial accused, without commenting anything on merit of the case, **this application is allowed.**

It is directed that the applicant be released on bail upon his furnishing a personal bond in the sum of **Rs. 80,000/- (Rupees Eighty Thousand)** with one solvent surety of the like amount to the satisfaction of the trial Court concerned for his appearance on the dates given by it.

It is further directed that the applicant shall abide by the conditions enumerated in Section 437(3) of the Code of Criminal Procedure.

Certified copy as per rules.

(SANJAY DWIVEDI)
JUDGE

RAGHVENDRA