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MCRC-43436-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL MISHRA

ON THE 27th OF SEPTEMBER, 2025MISC. CRIMINAL CASE No. 43436 of 2025*Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Vivek Kumar Tankha and Shri Shashank Shekhar - Senior Advocates
with Shri Samresh Katare and Ekanshu Lahana - Advocates for applicant.

Shri B.D. Singh - Deputy Advocate General for respondent/State.

Shri Sankalp Kochar - Advocate for respondent No.2.
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ORDER

This is the first application filed by the applicant under Section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023 for grant of regular bail relating to Crime No.39 of 2023 registered at Police Station Ashoka Garden, Bhopal (M.P.) for the offence under Sections 363, 366-A, 376, 376(2)(n), 376(2)(cha), 370, 419 & 120-B of the Indian Penal Code and Section 3/4 of Protection of Children From Sexual Offence Act, 2012. He is in custody since 13.09.2025.

2. It is argued that the applicant is an advocate by profession and he was arrested on 13.09.2025 with respect to Crime No.39 of 2023. It is argued that during the court proceedings before the trial court, when statement of victim was being recorded for the offences in relation to Crime No.39 of 2023 wherein she has stated that the present applicant who is an advocate has also committed rape with her, the police authorities have taken action and arrested the present applicant. It is argued that the said arrest of the applicant was in pursuance to an



offence which was registered way back in the year 2023 and the statement of the victim before the Court cannot be made the basis of arrest of the present applicant. Proper procedure has to be followed in the matter. Provisions of Section 319 of the Code of Criminal Procedure are required to be followed in the case. He has placed reliance upon a judgment of the Constitutional Bench of Hon'ble Supreme Court in the case *Sukhpal Singh Khaira vs. State of Punjab* reported in (2023) 1 SCC 289 with reference to para 41 wherein certain guidelines have been framed. It is argued that after filing of the charge-sheet before the trial Court, no such arrest can be made by the police authorities as they have already submitted a charge-sheet in the matter. They were required to file appropriate application before the trial court seeking proper direction. The same has not been done in the present case. It is submitted that the applicant is a practicing Advocate at district Court Rewa for years together and the manner in which the action has been taken against him by the police authorities is *per se* illegal. There is no evidence available on record against him. He is ready to cooperate with the investigating agency and prays for grant of bail.

3. Learned Deputy Advocate General appearing for the State as well as learned counsel appearing for the Objector have vehemently opposed the contentions and supported the case of the prosecution. It is submitted that the victim during the course of her examination-in-chief before the trial Court has identified the present applicant and has categorically stated that the applicant had committed rape with her. She has also given an explanation that why she has not taken the name of applicant on earlier occasion because she was not aware of his name. She has given an explanation that when she heard the name of the present applicant by some other advocate during court proceedings, she recollected the



fact that the applicant is the same person who had also committed rape with her. They have drawn attention of the Court to the statement of the victim wherein she has categorically stated that the present applicant had made forceful physical relations with her on several occasions. They have further drawn attention to the order-sheets of the trial Court pointing out the fact that the trial court after considering the statement given by the victim has not issued any directions, rather has handed over material available before the Court to the police authorities for further investigation which is within the domain of the Court. Placing reliance upon a judgment passed by the Hon'ble Supreme Court in the case of *State through Central Bureau of Investigation Vs. Hemendra Reddy and Another* reported in (2023) 16 SCC 779 with reference to para 85 wherein it is held that the Magistrate is having powers to issue direction for further investigation into the matter as there is no bar against conducting further investigation under Section 173(8) of the Code of Criminal Procedure after final report is submitted before the Court. Further placing reliance upon a judgment passed by the Hon'ble Supreme Court in the case of *Hasanbhai Valibhai Qureshi Vs. State of Gujarat* reported in AIR 2004 SC 2078 with reference to para 13, it is argued that once a new fact came to the knowledge of the Court, then it is the duty of the Court as well as the Investigating Agency to further investigate into the matter. In the present case, the Court is having jurisdiction to direct for further investigation into the matter as and when a new fact comes to the knowledge of the Court. A similar aspect was considered by the Hon'ble Supreme Court in the case of *K. Vadivel vs. K. Shanthi* reported in 2024 SCC OnLine 2643 wherein similar proposition was followed by the Hon'ble Supreme Court. It is further contended that there are specific allegations levied against the present applicant by the victim. This is not the first time when the allegations are levied against the



present applicant, they have also brought on record the earlier proceedings initiated in the year 2013 which registered against the present applicant though the same has been stayed by this Court vide order dated 26.04.2023 in M.Cr.C.No.13944 of 2013. It is contended that the applicant is habitual offender and taking aid of the fact that he is continuing in a noble professions of advocacy, he is committing these offences time and again. Therefore, the matter requires detailed investigation into the matter and the police authorities are having jurisdiction to take him into custody for further investigation the matter. It is further contended that the applicant and other co-accused dragged the victim into human trafficking. Once she some how managed to settle her life, they have again given threatening to her to disclose her identity as she has solemnized marriage showing herself to be belonging to Hindu community. Threatening was given to disclose her identity to her husband and their family members or else she should continue with the human trafficking business on the instructions of the applicant and other other co-accused persons. Therefore, they are again forcing her to come back in the human trafficking business, which is a serious offence being committed by the present applicant. Therefore, a detailed enquiry is required in the matter. They have prayed for dismissal of the application.

4. Heard learned counsel for the parties and perused the record.

5. The record indicates that during the court proceedings, the victim has identified the present applicant and has made a categorical statement that the applicant is the person who had committed rape with her on several occasions. She has given a categorical statement that applicant had called her to his office and committed rape with her. In the house of Vitthal also, he had committed rape with her. She was not knowing his name, but as soon as some other advocate has taken his name, then she immediately recollected that the applicant is the same person



who had committed rape with her. The learned trial Court has not taken any cognizance in the matter, however, sent the statement of the victim and records to the police authorities for taking necessary action in the matter, in pursuance to which, the applicant was got arrested.

6. Under these circumstances, as the specific allegations were levied against the present applicant by the victim, coupled with the fact she was dragged in human trafficking by the present applicant and other co-accused as per the allegations of the prosecution which requires detailed investigation into the matter, therefore, no case for grant of bail is made out at this stage.

7. Accordingly, the bail application is hereby rejected.

(VISHAL MISHRA)
JUDGE