

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ATUL SREEDHARAN

ON THE 15th OF FEBRUARY, 2023

MISC. CRIMINAL CASE No. 5792 of 2023

BETWEEN:-

JITENDRA BAGHEL S/O SHRI MEWARAM BAGHEL,
AGED ABOUT 30 YEARS, OCCUPATION BUSINESS, R/O
GRAM RAVAR, BILLOWA DISTRICT GWALIOR
(MADHYA PRADESH)

.....APPLICANT

(BY MS. SANGEETA PACHAURI - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THROUGH POLICE
STATION BILLOWA, DISTRICT GWALIOR (MADHYA
PRADESH)

.....RESPONDENT

(SHRI RAJEEV UPADHYAY - PUBLIC PROSECUTOR FOR STATE AND
SHRI NITIN GOYAL - ADVOCATE FOR THE COMPLAINANT)

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

ORDER

This first application under Section 439 of Cr.P.C. for grant of bail to applicant Jitendra Baghel has been filed in connection with Crime No. 408/2022 registered at Police Station Billowa, District Gwalior for the offences punishable under Sections 376, 376(2)(n), 456, 506 of IPC.

The applicant is in judicial custody since 8/1/2023 in the aforesaid case. The allegation against him is of having committed rape with the prosecutrix who is a married woman with a child. Learned counsel for the State and the Objector have initially opposed the application for grant of bail on the ground that the

applicant herein had threatened the prosecutrix with infamy and thereafter maintained sexual relations with her. Learned counsel for the Objector also submits that she had made a video of the alleged rape and given that also to the Police.

On the last date of hearing, this Court had directed the learned counsel for the State to go through the said video purportedly made by the prosecutrix herself and file a report before this Court whether it reflect threat or consensus.

Today, learned counsel for the State in compliance of the said order has placed the report before this Court giving the entire details what he had seen in the entire video.

The report reflects that in the room where the prosecutrix is alleged to have been raped, there was another person lying on the steel cot who had covered himself up. A child was also there on the said cot. The video reflects the applicant and the prosecutrix committing the sexual act in the same room in the presence of the other person, who is suspected to be the husband of the prosecutrix and the video does not show any kind of coercion or any type of conversation or threat between the applicant and the prosecutrix and the activities stops upon the child starting to cry.

Learned counsel for the State has submitted that the video prima facie does not show force, coercion or any kind of threat being held up to the prosecutrix.

Under the circumstances, in view of the above, and the looking to the period of incarceration undergone by the applicant herein, application is allowed. It is directed that the applicant shall be enlarged on bail upon his furnishing a personal bond in the sum of **Rs. 50,000/- (Rs. Fifty Thousand**

Only) with one solvent surety in the like amount to the satisfaction of the learned trial Court.

Certified copy as per rules.

**(ATUL SREEDHARAN)
JUDGE**

JPS/-

