

HIGH COURT OF MADHYA PRADESH,
BENCH AT GWALIOR

M.Cr.C. No. 10658/2020
(Banti Jatav Vs. The State of Madhya Pradesh)
(1)

Gwalior, dated : 22/5/2020

Shri Rajmani Bansal, Advocate for the applicant.

Shri Anoop Nigam, Panel Lawyer for the respondent/State.

In pursuance of the directions issued by the Apex Court and guidelines issued by the High Court of Madhya Pradesh in the wake of COVID-19 outbreak, the matter was taken up through video conferencing while adhering to the norms of social distancing prescribed by the Government.

Learned counsel for the applicant submits that he has already moved an application for amendment in view of the fact that section 376D, IPC has been enhanced.

The matter was listed on 18/5/2020 and the Office was directed to place the application on record, but the same has not been done.

However, learned Panel Lawyer does not dispute the fact that section 376D of the IPC has been enhanced.

Although the amendment application is not before this Court, yet taking into consideration the submissions made at Bar by learned counsel for the parties with regard to enhancement of section 376D of the IPC, the amendment application, so far as it relates to enhancement of the same, is hereby allowed.

Applicant apprehends arrest in connection with Crime

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No.02/2020 registered at Police Station Hastinapur, District Gwalior for the offences punishable under Sections 354“*Ga*”, 354“*Gha*”, 354 and 376D of the IPC.

Prosecution story, in short, are that applicant and co-accused Arvind Jatav used to follow the prosecutrix, tease and see her when she used to go for answering the call of nature. On 4/1/2020, at about 5 P.M, applicant and co-accused Arvind Jatav caught hold of her hand and outraged her modesty. On her shrieks, her mother Sunita Bai came there, seeing whom, both of them fled away. Later on, as stated by the parties, allegations of offence under section 376D of the IPC have also been levelled against the applicant and co-accused.

Learned counsel for the applicant submits that applicant has falsely been implicated in the case. At the time of lodging FIR, no allegation of rape was levelled against the applicant. Subsequently, in her statement recorded under section 164 of Cr.P.C., prosecutrix has stated that applicant had committed rape upon her, which is clearly an after thought. According to MLC report, prosecutrix is aged about 18 years. No external injury has been found on her body. In the report, no definite opinion has been given as to sexual assault upon her. Learned counsel for the applicant further submitted that in view of COVID-19 outbreak, detention of applicant in already congested prisons may be detrimental. It is submitted that applicant is permanent resident of Village Chakbahadur, Hastinapur, District

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Gwalior and there is no likelihood of absconson or tampering with the prosecution evidence. With the aforesaid submissions prayer for grant of anticipatory bail is made.

On the other hand, learned Panel Lawyer opposed the prayer for grant of anticipatory bail contending that investigation is pending and custodial interrogation may be necessitated.

Taking into consideration the facts and circumstances of the case, but without expressing any opinion on merits of the case, I deem it appropriate to extend the benefit of anticipatory bail to the applicant.

It is hereby directed that in the event of arrest of applicant namely **Banti Jatav**, he shall be released on bail on furnishing a personal bond of **Rs.50,000/- (Rupees Fifty Thousand only)** to the satisfaction of Arresting Authority. The applicant shall also furnish a written undertaking that he will abide by the terms and conditions of various circulars, as well as, orders issued by the Central Government, State Government and local administration from time to time such as maintaining social distancing, physical distancing, hygiene etc. to avoid proliferation of Corona virus.

This order will remain operative subject to compliance of the following conditions by the applicant:-

1. The applicant shall install **Aarogya Setu App** (if not already installed) in his mobile phone.
2. The applicant will comply with all the terms and

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conditions of the bond executed by him;

3. The applicant will cooperate in the investigation/trial, as the case may be;
4. The applicant will not indulge in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;
5. The applicant will not seek unnecessary adjournments during the trial;
6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.
7. **If the applicant commits any offence while being on anticipatory bail, then this order shall automatically stand cancelled without reference to the Court.**

Learned Panel Lawyer is directed to send an e-copy of this order to the Station House Officer of the concerned Police Station for information and necessary action.

Certified copy/e-copy as per rules/directions.

The application stands **disposed of** for now.

The applicant is directed to incorporate the amendment, as allowed above, within three days from the date of regular functioning of the Court, failing which the matter shall be listed before this Court for further orders.

(S.A.Dharmadhikari)
Judge

(and)