

HIGH COURT OF MADHYA PRADESH AT JABALPUR

Sanjay Dwivedi, J.

GAGAN AGRAWAL v. STATE OF MADHYA PRADESH

Misc. Criminal Case No. 5345 of 2022

09.02.2022

**IPC, S. 376 - CrPC S. 438, 164, 161 - Complainant stated that forcefully the applicant committed rape with her, which was reiterated in the complainant's statement recorded under Sections 164 so also 161 of the CrPC, although before the trial Court, at the time of hearing the applicant's anticipatory bail, she had given an affidavit pleaded no objection therein saying that applicant had not committed any rape upon her - Anticipatory bail granted - However, to teach a lesson to the persons like the complainant who are making mockery of law by misusing the provisions of law, the Superintendent of Police, is directed to make a proper enquiry in the matter and if it is found that the complainant had made false allegation against the applicant, then offence be registered against her in accordance with law for making a false complaint or misusing the provisions of law - It is further made clear that if any non-bailable offence is made out against the complainant for making a false complaint, then the police would be free to proceed further in accordance with law.**

*Mr. Satyam Agrawal, Advocate, Mr. Prakash Gupta, Panel Lawyer (Heard through Video Conferencing)*

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

ORDER

This is the first application filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.

The applicant is apprehending his arrest in Crime No.13/2022 registered at Police Station Rehti, District Sehore, for the offence punishable under Sections 376, 365 and 323/34 of the Indian Penal Code.

Learned counsel for the applicant submits that initially a complaint was made by the complainant against the applicant alleging therein that forcefully the applicant committed rape with her. He further submits that thereafter in the complainant's statement recorded under Sections 164 so also 161 of the CrPC, she reiterated the allegation as has been made in the FIR. He submits that although before the trial Court, at the time of hearing the applicant's anticipatory bail, she had given an affidavit pleaded no objection therein saying that Gagan Agrawal (present applicant) had not committed any rape upon her, but only at the instance of police, she made allegation of committing rape against the applicant

and as such, she had stated that if bail is granted to the applicant, then she would have no objection. Therefore, he submits that in view of the aforesaid, it is clear that the applicant is innocent and has falsely been implicated in the alleged crime and as such, he is entitled to get the protection of anticipatory bail.

On the other hand, learned Panel Lawyer submits that it is nothing, but misuse of law by the complainant because in the FIR and also in the statement recorded under Sections 164 and 161 of the CrPC, she had very categorically made allegation of forceful rape against the applicant, but later on, she took a somersault stating before the trial Court that a false complaint was made against the applicant.

Considering the arguments advanced by learned counsel for the parties and on perusal of available documents, I am inclined to enlarge the applicant on anticipatory bail. Therefore, without commenting anything on the merits of the case, this application is allowed.

It is directed that in the event of arrest, the applicant be released on bail upon his furnishing a bail bond in the sum of Rs.1,00,000/- (Rupees One Lac) with one solvent surety of the like amount to the satisfaction of the Station House Officer/Arresting Officer of the Police Station concerned.

The applicant shall abide by the conditions enumerated under Section 438 (2) of the Code of Criminal Procedure.

However, to teach a lesson to the persons like the complainant who are making mockery of law by misusing the provisions of law, the Superintendent of Police, Sehore, is directed to make a proper enquiry in the matter and if it is found that the complainant had made false allegation against the applicant, then offence be registered against her in accordance with law for making a false complaint or misusing the provisions of law. It is further made clear that if any non-bailable offence is made out against the complainant for making a false complaint, then the police would be free to proceed further in accordance with law.

Needless to say that the Superintendent of Police, Sehore, shall submit a report of such enquiry before this Court within the period of 15 days from today.

Certified copy as per rules.