

Surendra Dubey Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Apr-02-2013

Appellant : Surendra Dubey

Respondent : The State of Madhya Pradesh

Judgement :

1 MCRC.

No.2799 /2013 MCRC.

No.2799 /2013 2.4.2013 Shri Ashok Chakarvarty, Adv.for the petitioner/applicant.

Shri Rohani Prasad Tiwari, G.A.for the State.

Heard on an application u/s 438 Cr.P.C.This fiRs.bail application of the applicant.

Applicant Surendra Dubey apprehends his arrest in connection with Crime No.02/13 registered at Police Station-Dheemerkheda, District- Katni under Sections 509 of IPC and u/s 12 and 13 of the Protection of Children from Sexual Offences Act, 2012 (N0.

32 of 2012) (hereinafter referred to 'the Act 2012').Learned counsel for the applicant submits that allegation against the applicant is that he by showing photograph of prosecutrix, who is 16 yeaRs.age, threatened her to defame her in the eye of society, committed the aforesaid offences.

On the other hand, learned counsel for the State objected the grant of anticipatory bail on the ground that the offence u/s 12 of the Act, 2012 is made out against the applicant which is punishable with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

Looking to the facts and circumstances of the case even in the case of Section 12 of the Act, 2012 is made out against the applicant in which the punishment is only three years and there is no bar for granting anticipatory bail.

It is for the trial Court to see even in case of Section 13 of the Act, 2012 is made out or not and the maximum punishment is of five years. Since the applicant once released on bail by the police and he has not misused bail hence he deserves to be released on bail u/s 438 Cr.P.C, therefore, without meaning to comment on the merits of the case, the main application under Section 438 of Cr.P.C. of the applicant is allowed .

Applicant Surendra Dubey is directed to be released on bail in the event of arrest on his furnishing a personal bond in the 2 MCRC.

No.2799 /2013 sum of Rs.20,000/- (Rs.Twenty thousand only) with one surety in the like amount to the satisfaction of Arresting officer/ Trial Court .

The applicant shall further abide by the conditions enumerated in sub-section (2) of Section 438 Cr.P.C. He shall make himself available for interrogation by a police officer as and when required.

In view of the ratio laid down by Hon'ble Apex Court in Siddharam Satlingappa Mhetre versus State of Maharashtra and others J.2010 (13) SC 247. it is directed that this order shall remain in force till disposal of the case.

This M.Cr.C. is disposed of finally.

If the applicant furnishes the bail bonds and surety bonds before the Committal Court/trial Court at the time of filing of challan as per the terms and conditions as mentioned above.

Anyhow, the public prosecutor or complainant would be at liberty to move the same court for cancellation or modifying the conditions of bail any time if liberty granted by the Court is misused.

However, it is made clear that if the committal court/Trial Court issues an arrest warrant against the applicant due to his absence before that Court, then in such event this order be deemed ineffective.

Certified copy as per rules.

(M.A.Siddiqui) JUDGE Ag/ 3 MCRC.

No.2799 /2013

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