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**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE**

HON'BLE SHRI JUSTICE ATUL SREEDHARAN

ON THE 9th OF JANUARY, 2023

MISC. CRIMINAL CASE No. 60584 of 2022

BETWEEN:-

**JADU S/O SHRI RAMRATAN ADIWASI, AGED ABOUT 22
YEARS, OCCUPATION: LABOUR R/O- VILLAGE UPSIL
P.S. POHARI DISTRICT SHIVPURI (MADHYA PRADESH)**

.....APPLICANT

(BY SHRI BHUPENDRA SINGH DHAKAD -ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH THROUGH
POLICE STATION P.S. POHARI DISTRICT
SHIVPURI (MADHYA PRADESH)**
- 2. PROSECUTRIX P.S. POHARI DISTRICT SHIVPURI
(MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI B.P.S. CHAUHAN - PUBLIC PROSECUTOR)

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

ORDER

This **first** application under Section 439 of the Code of Criminal Procedure, 1973 has been filed for grant of bail by the applicant in connection with Crime No.137/2022, for the offences punishable under Section 376 of the IPC and Section 3/4 of the POCSO Act.

The applicant is in judicial custody since 10.06.2022 in the aforesaid case. The allegation against him is of having raped the prosecutrix who is a minor aged 15 years. The applicant himself is 22 years of age. The statement

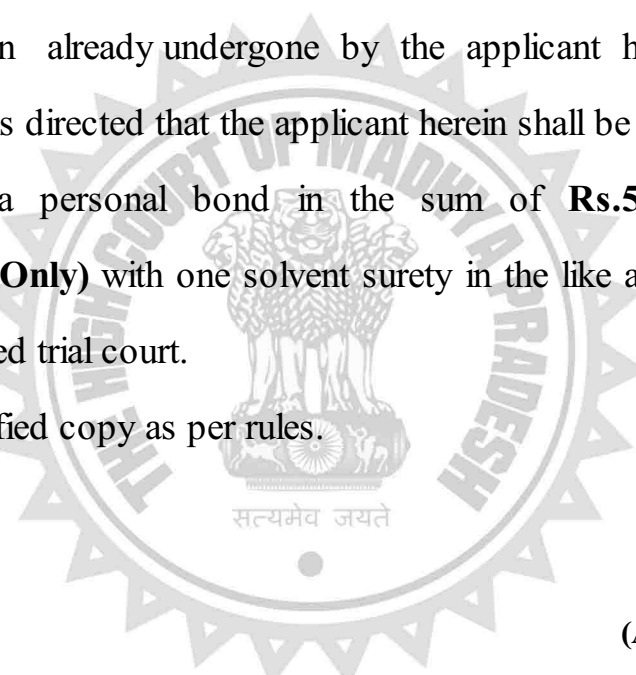
under Section 164 of the Cr.P.C. of the prosecutrix reveals that she has gone to several places alongwith the present applicant.

Learned counsel for the applicant has submitted that the case is one of consent and that the charge of rape is one under statutory rape on account of the minority of the prosecutrix, and not a case of forcible rape.

Learned counsel for the State has opposed the application for grant of bail on account of the minority of the prosecutrix.

Be that as it may, looking at the facts and circumstances of the case especially statement under Section 164 of the prosecutrix and the period of incarceration already undergone by the applicant herein, the application is allowed. It is directed that the applicant herein shall be enlarged on bail upon his furnishing a personal bond in the sum of **Rs.50,000/- (Rupees 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

Rashid