



1 MCRC-36890-2024
IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE PREM NARAYAN SINGH
ON THE 30th OF AUGUST, 2024
MISC. CRIMINAL CASE No. 36890 of 2024

DR. JAYA PANWAR
Versus
THE STATE OF MADHYA PRADESH

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Appearance:

Shri Santosh Khaware, learned counsel for the Petitioner .

Shri Anand Bhatt, Learned GA for the State.

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ORDER

Heard and perused the case diary.

1. This is first bail application filed by the applicant under Section 482 of BNSS. for grant of anticipatory bail who is apprehending her arrest in Crime No.280/2024, registered at Police Station-Malharganj, District-Indore for the offence punishable under Sections 75 of Juvenile Justice Act and Sections 76, 79 of BNSS.

2. Applicant, who is apprehending her arrest in the aforesaid offence, has knocked the portal of this Court for grant of anticipatory bail.

3. As per prosecution case, it is alleged that the applicant being a teacher, has harassed the students by disrobing them and by making objectionable videos on the pretext of checking.

4. Learned counsel for the applicant submits that applicant is innocent and has falsely been implicated in the present case. Applicant is a lady and senior



faculty of the school. She has experience of 23 years. She belongs to a reputed family in which her husband is a Government employee, one of child has completed MBBS and second child is also studying in the same sector. .She is ready to abide all the conditions as may be imposed by this Court. Therefore, she may be enlarged on anticipatory bail

5. On the other hand, learned counsel for the State has vehemently opposed the application by submitting that the act of the applicant is gruesome. On the pretext of checking the mobiles, she has harassed the minor children of the school and sexually harassed them. Investigation is going on and provisions of POCSO Act is required to be aggravated. Hence, looking to the act of the applicant, anticipatory bail may not be granted to her.

6. Heard counsel for both the parties and perused the case diary.

7. Before dwelling upon the rival submissions and facts of the case, it will be appropriate to quote the law laid down by Hon'ble Apex Court in the case of *Jai Prakash Singh vs. State of Bihar and others* [2012 (4) SCC 379] in which the Apex Court while canceling the anticipatory bail of the applicant therein so granted concerned High Court, has clearly observed that:-

"13.....The anticipatory bail being an extraordinary privilege should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after proper application of mind to decide whether it is a fit case for grant of anticipatory bail.

21.....The court may not exercise its discretion in derogation of



established principles of law, rather it has to be in strict adherence to them. Discretion has to be guided by law; duly governed by rule and cannot be arbitrary, fanciful or vague. The court must not yield to spasmodic sentiment to unregulated benevolence. The order dehors the grounds provided in Section 438 Cr.P.C. itself suffers from non- application of mind and therefore, cannot be sustained in the eyes of law."

8. Considering rival submissions, going through the case diary, as per the prosecution case, the act of the applicant is cruel in nature and as a teacher her act is highly objectionable. As such in view of the facts available in the case diary and rival submissions, no case for anticipatory bail is made out. Hence, the application is liable to be and is hereby rejected.

9. Here it is worth to mention that inspite of prosecution objection, the respective prosecution agency has not considered the provisions of POCSO Act and nothing is mentioned in the case diary on this aspect, hence, the Police Commissioner, Indore is directed to examine the matter in view of the POCSO Act, 2012 and submit report before the Registry of this Court within one month.

9. Registry is directed to send a copy of this order to the concerned Trial Court as well as the prosecution Agency for necessary compliance.

(PREM NARAYAN SINGH)
JUDGE