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THE HIGH COURT OF MADHYA PRADESH
M.Cr.C. No.39349/2019
(Manoj Vs. State of M.P.)

Gwalior, dated :30.09.2019

Shri H.K. Shukla, learned counsel for the applicant.

Ms. Upendri Singh, learned Panel Lawyer for the respondent/State.

The applicant has filed this **second** application under Section 439 of Cr.P.C for grant of bail, who has been arrested and is in custody since 13.01.2019, in connection with Crime No.370/2018, registered at Police Station University, District Gwalior, for the offence punishable under Sections 363, 366, 376 and 120-B of IPC and Section 3/4 of POCSO Act. His first bail application was dismissed as withdrawn vide order dated 05.08.2017 passed in MCRC No.31187/2019 by this Court.

It is the submission of counsel for the applicant that false case has been registered against him. He is in custody since 13.01.2019 on false pretext. Counsel for the applicant referred the court statements of prosecutrix (PW-1) and other witnesses including her family members to demonstrate the fact that they turned hostile and did not support the prosecution story. Therefore, chance of tampering with the evidence is now remote. He undertakes to cooperate in the investigation/trial and make himself available as and when required by the trial court. He would not be a source of

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embarrassment and harassment to the prosecution witnesses in any manner. He would not move in the vicinity of complainant party. He further undertakes to do some community service. Under these grounds, he prayed for grant of bail to the applicant.

Learned Panel Lawyer for the State opposed the prayer made by the applicant and prayed for dismissal of this application.

Heard learned counsel for the parties and perused the case diary.

Considering the submissions advanced by learned counsel for the applicant as well as fact situation of the case, but without expressing any opinion on merits of the case, this application is allowed and it is directed that the applicant be released on bail on furnishing a personal bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand Only)** with one solvent surety of the like amount to the satisfaction of the concerned trial Court.

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

1. The applicant will comply with all the terms and conditions of the bond executed by him;
2. The applicant will cooperate in the investigation/trial, as the case may be; and he would not move in the vicinity of complainant party in any manner.
3. The applicant will not indulge himself in extending

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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;

4. The applicant shall not commit an offence similar to the offence of which he is accused;

5. The applicant will not seek unnecessary adjournments during the trial; and

6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be;

7. As per the undertaking given by counsel on behalf of the applicant, it is hereby directed that applicant shall plant **5 saplings (either fruit bearing trees or Neem / Peepal) alongwith tree guards or has to make arrangement for fencing for protection of the trees** because it is the duty of the applicant not only to plant the saplings but also to nurture them. “वृक्षारोपण के साथ, वृक्षापोषण भी आवश्यक है।” He shall plant saplings/ trees preferably of 6-8 ft., so that they would grow into full fledged trees at an early time. For ensuring the compliance, he shall have to submit all the photographs of plantation of trees/saplings before the concerned trial Court alongwith a report within 30 days from the date of release of the applicant. The progress reports shall be submitted by the applicant before the trial Court on expiry of every three months for two years.

It is the duty of the trial Court to monitor the progress of the trees because human existence is at stake because of the environmental degradation and Court cannot put a blind fold over any casualness shown by the applicant regarding compliance. Therefore, trial Court is directed to submit a report regarding progress of the trees and the compliance made by the applicant by

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placing a short report before this Court every quarterly (every three months), which shall be placed under the caption "Direction" before this Court.

Any default on behalf of applicant in plantation or caring of trees shall disentitle the applicant from enjoying the benefit of bail.

The applicant shall be at liberty to plant these saplings/ trees at an place of his choice or where he lives if he intends to protect the trees on her owncost by providing tree guards or fencing for which applicant shall have to bear necessary expenses for plantation of the trees and their measures for safeguard.

This direction is made by this Court as a test case to address the Anatomy of Violence and Evil by process of Creation and a step towards Alignment with Nature. The natural instinct of compassion, service, love and mercy needs to be rekindled for human existence as they are innately engrained attributes of human existence.

"It is not the question of Plantation of a Tree but the Germination of a Thought."

A copy of this order be sent to the trial Court concerned for compliance.

C.c as per rules.

(Anand Pathak)
Judge

Rashid



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