

Harendra Tyagi Vs. State of Madhya Pradesh

Gwalior Bench Dated: 04/08/2020

Shri Sushant Tiwari, learned counsel for the applicant.

Shri Kamlesh Kori, learned PL for the respondent/State.

With consent heard finally.

The applicant has filed this first application under Section 439 of Cr.P.C for grant of bail, who has been arrested and is in custody since 24-06-2020, in connection with Crime No.24/2020, registered at Police Station, Aswar District Bhind for the offence punishable under Sections 323, 294, 506/34, 327, 329 of IPC.

It is the submission of learned counsel for the applicant that false case has been registered against him and he is suffering confinement since 24-06-2020 and he learnt the lesson hard way. It is further submitted that applicant is aged 18 years and he is bright student of Agriculture Science. Looking to the challenging time of COVID -19 pandemic situation, his case be sympathetically considered. Even otherwise, he learnt the lesson hard way and would mend his way and would become a better citizen. Confinement amounts to pretrial detention. He undertakes to cooperate in trial and to appear before the trial court as and when required and further undertakes that he would not be a source of harassment and embarrassment to the complainant party in any manner and would not move in his vicinity. He further undertakes to abide by all the terms and conditions of guidelines, circulars and directions issued by

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Central Government, State Government as well as Local Administration regarding measures in respect of COVID-19 Pandemic and maintain hygiene in the vicinity while keeping physical distancing. Applicant intends to perform community service.

Counsel for the State opposed the prayer and prayed for rejection of prayer of temporary bail.

Heard learned counsel for the parties at length through VC and considered the arguments advanced by them.

After considering the rival submissions as well as considering the peculiar fact situation, wherein, we are facing wrath of pandemic COVID-19, this Court is of the considered opinion that applicant deserves to be released on bail.

As this Court is not in a position to consider the facts of the case in detail, however, considering the fact that in view of COVID-19 pandemic, without commenting on the merits of the case, it is hereby directed that the applicant shall be released on bail, on his furnishing personal bond of **Rs.50,000/- (Rupees Fifty Thousand only)** alongwith one solvent surety of like amount to the satisfaction of trial Court and that he will have to install **Arogya Setu App**, if not already installed.

In view of COVID-19 pandemic, the jail authorities are directed that before releasing the applicant, his preliminary Corona Virus test shall be conducted and if he is found negative, then the concerned local administration shall make necessary arrangements for sending

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the applicant to his house, and if he is found positive then the applicant shall be immediately sent to concerned hospital for his treatment as per medical norms. If the applicant is fit for release and if he is in a position to make his personal arrangements, then he shall be released only after taking due travel permission from local administration. After release, the applicant is further directed to strictly follow all the instructions which may be issued by the Central Govt./State Govt. or Local Administration for combating the Covid19. If it is found that the applicant has violated any of the instructions (whether general or specific) issued by the Central Govt./State Govt. or Local Administration, then this order shall automatically lose its effect, and the Local Administration/Police Authorities shall immediately take him in custody and would sent him to the same jail from where he was released.

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

- 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;
3. The applicant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to the Police Officer, as the case may be;

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

5. The applicant will not be a source of embarrassment or harassment to the complainant party in any manner and applicant will not seek unnecessary adjournments during the trial;

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

7. Applicant shall not move in the proximity of the complainant and would always cooperate in trial. He would not tamper the evidence and witnesses of the case, otherwise, this benefit of bail shall be withdrawn.

8. Applicant shall remove himself from the WhatsApp and Facebook group and other Social Media groups for **next two months** and would not be present on any social media platform at all for two months for digital detoxification for personal reasons or for other reasons, otherwise bail shall be considered withdrawn.

9. Every month applicant shall have to submit report about his digital detoxification at the concerned police station and any default shall dis-entitle him from benefit of bail.

10. Applicant shall complete his study of PAT.

11. एतद् द्वारा यह निर्देशित किया जाता है कि आवेदक **05 पौधों** का **(फल देने वाले पेड़ अथवा नीम/पीपल)** रोपण करेगा तथा उसे अपने आस पड़ोस में पेड़ों की सुरक्षा के लिए बाड़ लगाने की व्यवस्था करनी होगी ताकि पौधे सुरक्षित रह सकें। आवेदक का यह कर्तव्य है कि न केवल पौधों को लगाया जाए, बल्कि उन्हें पोषण भी दिया जाए।

“वृक्षारोपण के साथ, वृक्षापोषण भी आवश्यक है।” आवेदक विशेषतः 6-8 फीट ऊँचे पौधे/पेड़ों को लगायेगा ताकि वे शीघ्र ही पूर्ण विकसित हो सकें। अनुपालन सुनिश्चित करने के लिए, आवेदक को रिहा किये जाने की दिनांक से 30 दिनों के भीतर संबंधित विचारण न्यायालय के समक्ष वृक्षों/पौधों के रोपण के सभी फोटो प्रस्तुत करना होंगे। तत्पश्चात्, विचारण के समापन तक हर तीन महीने में आवेदक के द्वारा विचारण न्यायालय के समक्ष प्रगति रिपोर्ट प्रस्तुत की जाएगी।

वृक्षों की प्रगति पर निगरानी रखना विचारण न्यायालय का कर्तव्य है क्योंकि पर्यावरण क्षरण के कारण मानव अस्तित्व दांव पर है और न्यायालय अनुपालन के बारे में आवेदक द्वारा दिखाई गई किसी भी लापरवाही को नजर अंदाज नहीं कर सकता है। इसलिए आवेदक को पेड़ों की प्रगति और आवेदक द्वारा अनुपालन के संबंध में एक रिपोर्ट प्रस्तुत करने के लिए निर्देशित किया जाता है एवं आवेदक द्वारा किये गये अनुपालन की एक संक्षिप्त रिपोर्ट इस न्यायालय के समक्ष प्रत्येक तीन माह में (अगले छः महीनों के लिए) रखी जायेगी जिसे कि “निर्देश ” शीर्ष के अंतर्गत रखा जाएगा।

वृक्षारोपण में या पेड़ों की देखभाल में आवेदक की ओर से की गई कोई भी चूक आवेदक को जमानत का लाभ लेने से वंचित कर सकती है।

आवेदक को अपनी पसंद के स्थान पर इन पौधों/पेड़ों को रोपने की स्वतंत्रता होगी, यदि वह इन रोपे गये पेड़ों की ट्री गार्ड या बाड़ लगाकर रक्षा करना चाहता है, अन्यथा आवेदक को वृक्षों के रोपण के लिए तथा उनके सुरक्षा उपायों के लिए आवश्यक खर्च वहन करना होंगे।

इस न्यायालय द्वारा यह निर्देश एक परीक्षण प्रकरण के तौर पर दिए गए हैं ताकि हिंसा और बुराई के विचार का प्रतिकार, सृजन एवं प्रकृति के साथ एकाकार होने के माध्यम से सामाजिक स्थिति स्थापित किया जा सके। वर्तमान में मानव अस्तित्व के आवश्यक अंग के रूप में दया, सेवा, प्रेम एवं करुणा की प्रकृति को विकसित करने की आवश्यकता है क्योंकि यह मानव जीवन की

मूलभूत प्रवृत्तियां हैं और मानव अस्तित्व को बनाए रखने के लिए इनका पुनर्जीवित होना आवश्यक है।

“यह प्रयास केवल एक वृक्ष के रोपण का प्रश्न न होकर बल्कि एक विचार के अंकुरण का है।”

E- copy of this order be sent to the **trial Court** concerned for compliance, if possible for the office of this Court.

Certified copy/ e-copy as per rules/directions.

Application stands allowed and disposed of.

(Anand Pathak)
Judge