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THE HIGH COURT OF MADHYA PRADESH
M.Cr.C. No.49541/2019
(Kumar Raj Vs. State of M.P.)

Gwalior, dated : 11.12.2019

Shri Ashish Singh Jadon, learned counsel for the applicant.

Shri Kshitij Sharma, learned Public Prosecutor for the respondent-State.

This is **first** bail application under Section 439 of Cr.P.C. on behalf of the applicant, who is in custody since 29/06/2019 in connection with Crime No.138/2019 registered at Police Station Banmorekalan, District Shivpuri for the offence punishable under Sections 324, 323, 294, 506, 34, 147, 148, 149, 325, 452, 363, 366 and 376 of IPC and Section 3/4 of POCSO Act.

It is the submission of learned counsel for the applicant that a false case has been registered against the applicant and he is suffering confinement since 29-06-2019. Charge-sheet has already been filed. It is further submitted that statement of the prosecutrix under Section 161 and 164 of Cr.P.C. is not implicative so far as allegation of rape is concerned over applicant. Later on, in supplementary statement under Section 161 of Cr.P.C. allegation of rape has been added by the prosecutrix and said allegation has been levelled against the present applicant, therefore, her conduct renders the case of prosecution doubtful. Confinement amounts to

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pretrial detention. He undertakes to cooperate in the trial and would make himself available as and when required and he would not be a source of embarrassment and harassment to the complainant in any manner. He further undertakes to do some community service. Under these circumstances, he prayed for grant of bail.

Learned counsel for the respondent/State opposed the prayer and prayed for its dismissal.

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

Considering the submissions made by learned counsel for the parties as well as the fact that confinement amounts to pretrial detention, without expressing any opinion on merits of the case, the application filed under Section 439 of Cr.P.C. is allowed. It is directed that applicant shall be released on bail on furnishing a personal bond in the sum of **Rs.50,000/- (Rs. Fifty Thousand Only)** with one solvent surety of the like amount to the satisfaction of the trial Court concerned for his regular appearance before the trial Court concerned on the dates fixed by the Court during the trial.

This order will remain operative subject to compliance of the

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following conditions by the applicant:-

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 him from disclosing such facts to the Court or to the Police Officer, as the case may be.
 4. The applicant will 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. The applicant would not induce any intimidation and threat to the complainant party and would not be a source of embarrassment and harassment to the complainant party in any manner.
8. As per the undertaking given by counsel on behalf of the applicant for social/community work, the applicant is directed to visit District Hospital, Shivpuri in Outdoor Patient Department (OPD) and serve the patients **on every Monday and Tuesday from 9 am to 1 pm from the date of release of applicant (for next six months)**, so that he may learn the lesson to believe in peaceful co-existence in the society and become a better citizen. Chief Medical & Health Officer (CMHO), District -Shivpuri/Hospital

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Superintendent as the case may be, shall permit the applicant to work in the Outdoor Patient Department only while assisting the male nurses to serve the patients. He would not be allowed to move in the Wards and ICU etc. CMHO, Shivpuri/ Hospital Superintendent shall use the service of applicant in maintaining cleanliness in the building and serving the patients and doing work like First Aid etc., so that applicant may inculcate some basic knowledge of First Aid or Emergency Care of patients which may be helpful for unforeseen exigencies or natural calamities wherein applicant may be helpful as a volunteer. It is made clear that applicant shall not be a source of any infection and discomfort to the patients and would confine himself in the work of cleanliness, registration of patients or those works which may not endanger the interest of any patient.

A copy of this order be sent to CMHO, Shivpuri/Hospital Superintendent for information and ensuring compliance of this order. CMHO / Hospital Superintendent, Shivpuri may inform the Registry of this Court, if any default is made by the applicant. Even otherwise, CMHO/Hospital Superintendent as the case may be, may submit a report about the conduct and the work done by the

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applicant every month, which shall be kept under the caption "**Direction**". The report may be submitted in **April, 2020**. On the other hand, applicant shall also have to submit a report about his experience of community service before this Court, which shall be placed before this Court under the caption "Direction".

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.

Copy of this order be sent to the District Judge, Shivpuri, CMHO, Shivpuri/Hospital Superintendent of concerned Hospital and concerned trial Court for information and necessary compliance.

Certified copy as per rules.

(Anand Pathak)
Judge