

THE HIGH COURT OF MADHYA PRADESH

Merc 50374/19**(Lukka @ Lukman Vs. State of M.P.)****Gwalior Dt. 11/12/2019**

Shri M.K.Chaudhary, Advocate for the petitioner.

Ms. Anuradha Singh, Public Prosecutor for the State.

Case-diary is perused.

Learned counsel for the rival parties are heard.

The petitioner has filed this second repeat application u/S. 439 of Cr.P.C. for grant of bail after rejection of earlier one with liberty to come again after conclusion of investigation by order dated 13/11/2019 in Merc 44694/19.

The petitioner has been arrested on 26/9/2019 by Police Station Noorabad, District Morena (M.P.) in connection with Crime No.165/19, registered in relation to the offence punishable u/Ss. 457 & 380 IPC.

Learned Public Prosecutor for the State opposed the application and prayed for its rejection by contending that on the basis of the allegations and the material available on record, no case for grant of bail is made out.

New ground raised in this repeat application is completion of investigation by filing charge-sheet. Since investigation is over, further custodial may not be necessary and no purpose would be served to continue incarceration of petitioner especially in the absence of criminal antecedents.

Considering the above facts and that early conclusion of the trial is

bleak possibility and prolonged pre-trial detention is anathema to the concept of liberty and the material placed on record does not disclose possibility of the petitioner fleeing from justice, this Court is inclined to extend the benefit of bail to the petitioner but with certain stringent condition in view of nature of offence.

Accordingly, without expressing any opinion on merits of the case, this application is allowed and it is directed that the petitioner be released on bail on furnishing a personal bond in the sum of **Rs. 50,000/- (Rs. Fifty Thousand only) with two solvent sureties each of Rs. 25,000/-** to the satisfaction of the concerned Trial Court.

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

1. The petitioner will comply with all the terms and conditions of the bond executed by him;
2. The petitioner will cooperate in the investigation/trial, as the case may be;
3. The petitioner 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/her from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The petitioner shall not commit an offence similar to the offence of which he is accused;
5. The petitioner will not seek unnecessary adjournments during the trial; and
6. The petitioner will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.
7. The petitioner shall mark his presence before the trial court once every fortnight till conclusion of trial.

8. The petitioner shall plant 25 saplings of indigenous fruit bearing or shady trees on the side of the road/street of the place of residence of petitioners or at any other place in the district which is earmarked by the Collector/Revenue Authority for planting trees and shall take care of the trees for the next one year by watering the plants and by installing tree guards at his own expenses. In case the petitioners are unable to afford incurring of such expenses, then he would obtain saplings/tree guard from the forest authorities (the concerned Forest Range Officer of the area) free of cost or at concessional/nominal rates available under any beneficial scheme of the Government. The petitioner shall file an affidavit disclosing compliance of this condition within 30 days in the Registry, failing which this court may consider cancellation of bail.
9. On complying with Condition No.8 aforesaid, the petitioner is directed to inform the location of plantation made to the Forest Rang Officer of the area concerned who will pass on this information to the DFO concerned.

For effective implementation of this order in the interest of betterment of ecology of the area concerned, the District Magistrate of district within which the petitioner resides is directed to assist the petitioner/accused to comply with condition No.8 by extending all possible financial and material assistance to the petitioner admissible under any of the beneficial scheme for afforestation of the State.

The DFO of the concerned District is directed to file verification report before the trial Court concerned after carrying out inspection personally or through any other officer of the Forest Dept duly authorised in that behalf disclosing as to whether petitioner has complied with condition No.8 or not, and if yes to what extent?

The learned trial Judge on receiving report of noncompliance of condition No.8 shall forthwith communicate the same to the Registry of this Court.

The Registry on receiving any such report from the trial Court disclosing default shall put up the matter before appropriate Bench in shape of PUD.

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

Let a typed copy of this order be also supplied to the counsel for the State for compliance of the aforesaid directives.

A copy of this order be furnished by the Registry of this court to the concerned District Magistrate and the DFO having territorial jurisdiction over the place of residence of the petitioner for execution of the order in the interest of the ecology.

For the time being this case stands disposed of.

C.c. as per rules.

(Sheel Nagu)
Judge

(Bu)