

HIGH COURT OF MADHYA PRADESH
1 **M.Cr.C.No.32395/2020**
(Ramveer Lodhi Vs. State of M.P. and another)

Gwalior Bench: Dated 15/09/2020

Shri Sunil Kumar Jain, learned counsel for the applicant.

Shri Anand Sikarwar, learned PL for the respondent/State.

Matter is heard through Video Conferencing.

The applicant has filed this **fifth** bail application u/S.439 Cr.P.C for grant of bail. Applicant has been arrested on 10.11.2019, by Police Station- Rannod, District Shivpuri, in connection with Crime No.157/2019, for the offence punishable under Section 363, 376 of IPC and Sections 3/4 of the POCSO Act.

It is the submission of learned counsel for the applicant that applicant is suffering confinement since 10.11.2019 on false pretext whereas other co-accused have been granted bail. Charge-sheet has already been filed. Story indicates inconsistencies and contradictions. Statement recorded under Sections 161 and 164 of Cr.P.C. of prosecutrix suffer from material contradiction. Applicant does not bear any criminal record. Confinement amounts to pretrial detention. He undertakes to cooperate in trial as well as investigation and would available as and when required. He further undertakes to perform community service by way of plantation voluntarily and to serve the national / environmental cause to purge his misdeeds if any. He further

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undertakes to install **Arogya Setu App**. Under these grounds, prayer for bail has been made.

Learned Panel Lawyer for the State opposed the prayer and prayed for dismissal of the bail application.

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

Considering the submissions advanced by the learned counsel for the parties and the fact situation and no custodial interrogation is required, without commenting on the merits of the case, the application is allowed. 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)** with one solvent surety in the 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 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

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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 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 them 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

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offence of which he is accused;

5. The applicant will not move in the vicinity of complainant party 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; and
7. The applicant will inform the SHO of concerned police station about his residential address in the said area and it would be the duty of the Public Prosecutor to send **E-copy** of this order to SHO of concerned police station for information.
8. **Applicant would not involve in any criminal activity and also would not commit the same nature of offence in future.**
9. 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 **3-4 फीट ऊँचे पौधे/पेड़ों को 3-5 फीट के गड्ढे करके लगायेगा ताकि वे शीघ्र ही पूर्ण विकसित हो सकें।** और यथासंभव हो तो तपोवन नर्सरी, ग्वालियर (वन विभाग, मध्यप्रदेश शासन) से प्राप्त कर पौधरोपण करें। अनुपालन सुनिश्चित करने के लिए, आवेदक को रिहा किये जाने की दिनांक से 30 दिनों के भीतर संबंधित विचारण न्यायालय के

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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 सामाजिकस्थ 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

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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।”

Application stands allowed and disposed of.

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.

(Anand Pathak)
Judge

Rashid