

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE**

ON THE 30th OF JANUARY, 2023

CRIMINAL REVISION No. 65 of 2023

BETWEEN:-

**CHILD IN CONFLICT WITH LAW S/O
SHRI MOHD. ILIYAS, AGED ABOUT
16 YEARS, OCCUPATION: S/O SHRI
ILIYAS OCCUPATION NIL, MINOR,
THROUGH NATURAL GUARDIAN HIS
MOTHER SMT. JAMEELA BEE W/O
SHRI MOHD. ILIYAS R/O HOUSE OF
SHAFIQ BHAI, SINDAR NAGAR
KABADKHANA, DISTRICT BHOPAL
(MADHYA PRADESH)**

.....PETITIONER

(BY SHRI RAKESH DWIVEDI - ADVOCATE)

AND

**1. THE STATE OF MADHYA
PRADESH THROUGH HOUSE
OFFICER POLICE STATION
HANUMANGANJ DISTRICT
BHOPAL (MADHYA PRADESH)**

**2. VICTIM A D/O NOT MENTION
THROUGH STATIO HOUSE
OFFICER POLICE STATION
HANUMANGANJ DISTRICT
BHOPAL (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI VIVEK LAKHERA – GOVERNMENT ADVOCATE)

This revision coming on for admission this day, the court passed the following:

ORDER

This is criminal revision under Section 102 of Juvenile Justice (Care & Protection of Children) Act, 2015 (for short “Act of 2015”) filed on behalf of child in conflict with law through his legal guardian (mother) Smt. Jameela Bee against the order dated 21.11.2022 passed by XVIIth Additional Sessions Judge, Bhopal. in Criminal Appeal No.559/2022; whereby, appeal preferred by petitioner under Section 101 (2) of the Act of 2015 has been dismissed and order passed by Juvenile Justice Board dated 29.03.2022 rejecting the application of the petitioner under Section 12 of the Act of 2015 has been affirmed. By the order of the Juvenile Board dated 21.11.2022, the application of the petitioner under Section 12 of the Act of 2015 for release of the petitioner on bail bond was rejected.

At the outset, learned counsel for the respondent/ State placed Social Investigation Report (hereinafter referred to as “S.I.R.”) submitted by Legal cum Probation Officer, District Child Protection Unit, Bhopal to submit about his conduct. The same is taken on record.

It is the submission of learned counsel for the petitioner/revisionist that he is institutionalised since 24.7.2022 in Home Reformation Centre/ Remand Home. He is around 16 years of age and Social Investigation Report indicates that he left studies after Class 4th and is a man of overall peaceful disposition specially when he lived in the institution. Report recommends that his conduct and behaviour is upto the mark. It is the submission of counsel for the petitioner that a chance be given to reform himself and to make course correction to mend his ways and to become a better citizen. Petitioner does not bear any criminal record. According to report of Probation Officer, his conduct in the remand home is satisfactory and he undertakes to perform community service in view of Section 18(1) (c) of the Act of 2015 as well as in the light of the judgment of this Court in the case of **Sunita Gandharva Vs. State of M.P. reported in 2020 (3) MPLJ(Cri.) 247**. Confinement may dampen his spirit and would take away a chance of petitioner to reform himself. He undertakes to cooperate in trial and would involve himself in creative pursuits like reading, sports and educational activities and would not involve in any criminal activities in future and would not be source of embarrassment and harassment to the complainant party in any manner.

His company would be good and people of law abiding traits. Thus, prayed for grant of bail.

Learned counsel for the respondent/State opposed the prayer and prayed for rejection of this revision petition in the form of bail application.

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

Perusal of the S.I.R. indicates that child in conflict with law (juvenile) was not aware about the consequences of crime, prima-facie which he had committed. Even otherwise, he has already suffered sufficient period of incarceration since 24.07.2022 and chance can be given for course correction, therefore, this Court is inclined to give bail to the applicant. As per Section 18(1)(c) of the Juvenile Justice (Care and Protection of Children) Act, 2015, the applicant is directed to indulge in creative pursuits and try to involve in sports or other creative activities so that he may be able to make his way away from crime.

Looking to the fact situation of the case, period of custody and SIR, without commenting on the merits of the case, petition is allowed and it is directed that on furnishing personal bond of **Rs.50,000/- (Rs. Fifty Thousand Only)** with one solvent surety of the like amount by father/natural guardian of the petitioner, custody of petitioner be handed over to him/ her with the clear stipulation to produce the petitioner before the Investigating Officer/trial Court as and when required. **It is further directed that parents of petitioner shall take responsibility of his conduct and would submit report of conduct of petitioner every month to the Probation Officer, Office of District Child Protection Officer, Bhopal and petitioner shall not move in the vicinity of complainant and would not intimidate or threat them in any manner, else the benefit of bail granted by this Court shall be withdrawn immediately. Parents of petitioner shall ensure that the child in conflict with law would indulge himself in creative, sports and educational activities and try to pursue some creative learning so that he may learn the skill to sustain himself.**

In the light of the judgment of **Sunita Gandharva (supra)**, petitioner is directed to perform community service in his vicinity so that he can involve in reformatory measures with the expectation that he shall not involve in criminal activities in future and would not move with the criminal elements and involve himself in creative pursuits like sports, reading and educational activities etc.

एतद् द्वारा यह भी निर्देशित किया जाता है कि आवेदक 02 पौधों का (फल देने वाले पेड़ अथवा नीम/पीपल) रोपण करेगा तथा उन्हें अपने आस पड़ोस में पेड़ों की सुरक्षा के लिए बाड़ लगाने की व्यवस्था करनी होगी ताकि पौधे सुरक्षित रह सके। 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 ऊंचे पौधे/पेड़ों को लगायेगे 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 करने 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।”

It is expected from the petitioner that he shall submit **photographs** by downloading the mobile application (NISARG App) prepared at

the instance of High Court for monitoring the plantation through satellite/Geo- Tagging.

Petition is accordingly disposed of.

Copy of this order be sent to the trial Court concerned for information and necessary compliance.

Certified copy as per rules.

**(ANAND PATHAK)
JUDGE**

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