IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR BEFORE

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HON'BLE SHRI JUSTICE ANAND PATHAK

ON THE 30th OF JANUARY, 2023

MISC. CRIMINAL CASE No. 1265 of 2023

BETWEEN:-

NANDU AHIRWAR S/O SHRI KHADIYA AHIRWAR, AGED ABOUT 50 YEARS, OCCUPATION: LABOUR 1. VILLAGE PAGARI POLICE STATION

SIMARIYA DISTRICT PANNA (MADHYA PRADESH)

RAJESH AHIRWAR S/O HALKE AHIRWAR, AGED ABOUT 20 YEARS, OCCUPATION: LABOUR R/O

2. VILLAGE PAGARI, POLICE STATION SIMARIYA, DISTRICT PANNA (MADHYA PRADESH)

.....APPLICANTS

(BY SHRI (DR.) ANUVAD SHRIVASTAVA - ADVOCATE)

<u>AND</u>

THE STATE OF MADHYA PRADESH THROUGH RANGER FOREST CIRCLE MOHANDRA DISTRICT PANNA

(MADHYA PRADESH)

.....RESPONDENT (BY SHRI AKSHAY NAMDEO – GOVERNMENT ADVOCATE)

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

ORDER

The applicants have filed this FIRST bail application u/S 439 Cr.P.C. for grant of bail. Applicants have been arrested on 28.12.2022, by Police Station Forest Circle, Mohandra, District Panna, in connection with POR No.846/2016, for offences punishable under Sections 2, 9, 50, 51 and 52 of the Wild Life (Protection) Act, 1972.

It is the submission of learned counsel for the applicants that the applicants are suffering confinement since 28.12.2022 and the charge-sheet has already been filed. The material prosecution witnesses have been examined and, therefore, chance of tampering with evidence/witnesses is remote.

It is also submitted by the learned counsel for the applicants that as per allegations, the applicants prepared a trap for Panther and it was fastened in the said trap but the same was not of applicants and on the basis of statements under section 27 of the Evidence Act, they have been implicated. Confinement amounts to pre-trial detention especially when the applicants do not bear tainted criminal background, except that one case of similar nature haunts applicant no.1 Nandu Ahirwar and the same was compounded because as per allegations forest wood was taken by applicants for using it as fuel. They intend to mend their ways to become a better citizens by not involving in criminal activities in future. Therefore chance be given for course correction. They undertake to cooperate in trial and would not be a source of embarassment/harassment to the complainant side in any manner. They will also abide by all the terms and conditions as imposed by this court. They further undertake to perform community service to purge their misdeeds, if any, and to serve National/ Environmental/ Social Cause. Under these grounds, counsel prayed for bail.

Learned Government Advocate for the State opposed the prayer for bail and prayed for its dismissal.

Heard learned counsels for the parties at length and perused the case diary.

Considering the above submissions advanced by the learned counsel for the parties and the fact situation that no custodial interrogation of the applicants is required and a chance be given to them for course correction but without commenting on the merits of the case, and as per the spirit of community service echoed in the order of **Sunita Gandharva Vs. State of M.P.** reported in **2020(3) MPLJ** (Cri.) **247**, the application is allowed. It is hereby directed that the

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applicants shall be released on bail on their furnishing personal bond of **Rs.50,000/- (Rupees Fifty Thousand Only)** each with one solvent surety in the like amount to the satisfaction of trial Court.

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

1. The applicants will comply with all the terms and conditions of the bond executed by them;

2. The applicants will cooperate in the investigation/trial, as the case may be;

3. The applicants will not indulge themselves 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 applicants shall not commit an offence similar to the offence of which they are accused;

5. The applicants will not seek unnecessary adjournments during the trial;

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

7. The applicants shall not involve in any criminal activity in future and would participate in creative pursuits.

8. It is made clear that this bail is granted once the case is made out for bail and thereafter, direction for plantation of saplings is given and it is not the case where a person intends to serve social cause can be given bail without considering the merits.

एतद द्वारा यह भी निर्देशित किया जाता है कि आवेदकगण 10 पौधों का फल देने वाले पेड़ अथवा नीम/पीपल रोपण करेगा तथा उन्हे अपने आस पडोस में पेड़ों की सुरक्षा के लिए बाड़ लगाने की व्यवस्था करनी होगी ताकि पौधे सुरक्षित रह सके। आवेदकगण का यह कर्तव्य है कि न कवेल पौधों को लगाया जाऐ, बल्कि उन्हें पोषण भी दिया जाए। "वृक्षारोपण के साथ, वृक्षापोषण भी आवश्यक है।" आवेदकगण विशेषतः 6–8 फीट कूंचे 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 मीतर विचारण न्यायालय के समक्ष वृक्षों/पौधों के रोपण के सभी फोटो प्रस्तुत करने होगें। तत्पश्चात्, अगले तीन वर्ष तक हर तीन महीने में आवेदक के द्वारा विचारण न्यायालय के समक्ष प्रगति रिपोर्ट प्रस्तुत की जाएगी।

वृक्षों की प्रगति पर निगरानी रखना आवेदक का कर्तव्य है क्योंकि पर्यावरण क्षरण के कारण मानव अस्तित्व दांव पर है और न्यायालय अनुपालन के बारे में आवेदकगण द्वारा दिखाई गई किसी भी लापरवाही को नजर अंदाज नही कर सकता है। इसलिए आवेदकगण 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 संक्षप्ति रिपोर्ट विचारण न्यायालय के समक्ष प्रत्येक तीन माह में प्रस्तुत की जायेगी।

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

आवेदकगण को अपनी पसंद के स्थान पर इन पौधों / पेडों को रोपने की स्वतत्रंता होगी, यदि वह इन रोपे गये पेडों की ट्री गार्ड या बाड़ लगाकर रक्षा करना चाहता है, अन्यथा आवेदकगण को वृक्षों के रोपण के लिए तथा उनके सुरक्षा उपायों के लिए आवश्यक खर्चे वहन करना होगें।

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 सामंाजस्य सीापित किया जा सके। वर्तमान में मानव अस्तित्व के आवश्यक अंग के रूप में दया, सेवा, प्रेम एवं करूंणा की प्रकृति को विकसित करने की आवश्यकता है क्योंकि यह मानव जीवन की मूलभूत प्रवृतियां हैं और मानव अस्तित्व को बनाए रखने के लिए इनका पुनर्जीवित होना आवश्यक है।

यह निर्देश आवेदकगण के द्वारा स्वतः व्यक्त की गई सामुदायिक सेवा की इच्छा के कारण दिया गया है जो स्वैच्छिक है।

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

It is expected from the applicants that they 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/Geo-fencing.

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Application stands allowed and disposed of.

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

Certified copy as per rules.

(ANAND PATHAK) JUDGE

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