

**(2019) 10 MP CK 0018**

**In the Madhya Pradesh High Court**

**Case No : Miscellaneous Criminal Case No. 38843 Of 2019**

Kuldeep Singh Tomar

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

**Date of Decision : 04-10-2019**

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 439  
Indian Penal Code, 1860 — Section 370(2)  
Information Technology Act, 2000 — Section 67, 67A

**Citation : (2019) 10 MP CK 0018**

**Hon'ble Judges : S.A. Dharmadhikari, J**

**Bench : Single Bench**

**Advocate : G.M. Soni, Mukesh Sharma**

**Final Decision : Disposed Of**

## **Judgement**

The applicant has filed this second application under section 439 of the Cr.P.C. for grant of bail. The first application was dismissed on merits vide order dated 29/07/2019 passed in MCRC No.28413/2019. The applicant has been arrested by Police Station-Cybar Cell, District- Gwalior in connection with Crime No.139/2018 registered in relation to the offences punishable under Section 370 (2) of the IPC and Sections 67 and 67-A of Information and Technology Act.

Allegation against the applicant is that he along with co-accused persons has been found committing the immoral trafficking of the girls by publishing or transmitting their information. On the basis of the aforesaid, crime has been registered against the applicant.

Learned counsel for the applicant submitted that the applicant has been falsely implicated in the present case. He is not involved in the case directly or indirectly. It is further submitted by him that co- accused -Kundan Kumar Dubey and Varsha Rathore have already been enlarged on bail by this Court vide order dated 07/08/2019 and 09/04/2019 passed in MCRC Nos.25572/19 and 8586/2019. The applicant is a permanent resident of District Bhind and he is in

custody since 30/07/2019 and early conclusion of the trial is a bleak possibility and prolonged pre-trial detention is an anathema to the concept of liberty. Under these grounds, applicant prays for grant of bail.

On the other hand, learned Public Prosecutor has opposed the bail 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.

After hearing aforesaid arguments and looking to the facts and circumstances of the case, without expressing any opinion on merits of the case, this application is allowed but with certain stringent conditions and it is directed that the applicant be released on bail on furnishing a personal bond in the sum of Rs.1,00,000/- (Rupees One Lac Only) with two solvent sureties each of Rs.50,000/- (Rupees Fifty Thousand Only) to the satisfaction of the concerned trial Court.

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 him/her 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 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 shall plant 10 saplings of indigenous fruit bearing or shady trees on the side of the road/street of the place of residence of applicant 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 applicant is 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 applicant shall file an affidavit disclosing compliance of this condition within 30 days in the Registry, failing which this court may consider cancellation of bail.

On complying with condition aforesaid, the applicant is directed to inform the location of plantation made to the Forest Range 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 applicant resides is directed to assist the applicant/accused to comply with the said condition No.7 by extending all possible financial and material assistance to the applicant 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 Department duly authorized in that behalf, disclosing as to whether applicant has complied with the said condition or not, and if yes to what extent?

The learned trial Judge on receiving report of non-compliance of condition No.7 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 applicant for execution of the order in the interest of the ecology.

For the time being this case stands disposed of.

Certified copy as per rules.