

(2019) 10 MP CK 0124

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 42273 Of 2019

Monu Ahirwar

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 22-10-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 164, 439
Indian Penal Code, 1860 — Section 376(2)(n), 506

Citation : (2019) 10 MP CK 0124

Hon'ble Judges : Anand Pathak, J

Bench : Single Bench

Advocate : S.K. Yadav, Kamlesh Kori

Final Decision : Allowed

Judgement

The applicant has filed this first application under Section 439 of Cr.P.C for grant of bail, who has been arrested and is in custody since 06-09-2019, in connection with Crime No.445/2019, registered at Police Station Gole Ka Mandir District Gwalior for the offence punishable under Sections 376(2)(n), 506 of IPC.

It is the submission of learned counsel for the applicant that false case has been registered against him. He is suffering confinement since 06-09-2019. Charge-sheet is likely to be filed soon. Statement under Section 164 of Cr.P.C. indicates consensual nature of relationship. Confinement since 06-09-2019 amounts to pretrial detention. He undertakes to cooperate in trial and to appear before the trial Court as and when required and further undertakes that he would not be a source of harassment and embarrassment to the prosecutrix and her family members and would not move in her vicinity in any manner and intends to do some community service. Thus, prayed for bail.

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

Considering the submissions advanced, looking to the facts and circumstances of

the case, but without commenting on the merits of the case, the application is allowed. It is directed that the applicant shall be released on bail on his furnishing personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only), with one solvent surety of the like amount to the satisfaction of Trial Court concerned.

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 from disclosing such facts to the Court or to the Police Officer, as the case may be.
4. The applicant will 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. As per the undertaking given by counsel on behalf of the applicant, it is hereby directed that applicant shall plant 5 saplings (either fruit bearing trees or Neem/Peepal) alongwith tree guards or has to make arrangement for fencing for protection of the trees because it is the duty of the applicant not only to plant the saplings but also to nurture them. "o`{kkjksi.k ds lkFk] o`{kkiks"k.k Hkh vko';d gSA" He shall plant saplings/ trees preferably of 6-8 ft., so that they would grow into full fledged trees at an early time. For ensuring the compliance, he shall have to submit all the photographs of plantation of trees/saplings before the concerned trial Court alongwith a report within 30 days from the date of release of the applicant. The progress reports shall be submitted by the applicant before the trial Court on expiry of every two months for three years.

It is the duty of the trial Court to monitor the progress of the trees because human existence is at stake because of the environmental degradation and Court cannot put a blind fold over any casualness shown by the applicant regarding compliance. Therefore, trial Court is directed to submit a report regarding progress of the trees and the compliance made by the applicant by placing a short report before this Court every quarterly (every three months), which shall be placed under the caption "Direction" before this Court.

Any default on behalf of applicant in plantation or caring of trees shall disentitle the applicant from enjoying the benefit of bail.

The applicant shall be at liberty to plant these saplings/ trees at an place of his choice if he intends to protect the trees on his own cost by providing tree guards or fencing.

This direction is made by this Court as a test case to address the Anatomy of Violence and Evil by process of Creation and a step towards Alignment with Nature. The natural instinct of compassion, service, love and mercy needs to be rekindled for human existence as they are innately engrained attributes of human existence.

"It is not the question of Plantation of a Tree but the Germination of a Thought."

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

Certified copy as per rules.