
(2019) 10 MP CK 0136

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 40858 Of 2019

Pappu

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 22-10-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 363, 366A

Citation : (2019) 10 MP CK 0136

Hon'ble Judges : Sheel Nagu, J

Bench : Single Bench

Advocate : Jitendra Kumar Tyagi, R.S. Bansal

Final Decision : Disposed Of

Judgement

This is 4th repeat bail application u/S. 439 Cr.P.C. filed by the petitioner for grant of bail after rejection of earlier one on merits with liberty to come again after examination of prosecutrix.

Petitioner has been arrested on 03.04.2019 by Police Station Noorabad District Morena (M.P.) in connection with Crime No.18/2004 registered in relation to the offences punishable u/S.363, 366A of IPC.

Learned Public Prosecutor for the State opposed the 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.

New ground raised herein is that prosecutrix was examined as PW-3 on 15.03.2018 and in her testimony, she disclosed her age to be 23 years at the time of incident.

In view of above, it seems that the offence punishable u/S. 366-A of IPC may not be made out. Petitioner has no criminal antecedent.

Considering the above and looking to the fact that material placed on record

does not disclose the possibility of the petitioner fleeing from justice and trial is not likely to conclude in the near future and prolonged pre-trial detention being an anathema to the concept of liberty, this Court is inclined to extend benefit of bail to the petitioner.

Accordingly, without expressing any opinion on merits of the case, this application is allowed and it is directed that petitioner-Pappu be released on bail on furnishing a personal bond in the sum of Rs. 50,000/- (Rs. Fifty Thousand only) with two solvent sureties each of Rs.25,000/- to the satisfaction of the concerned Trial Court.

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

1. The petitioner will comply with all the terms and conditions of the bond executed by him;
2. The petitioner will cooperate in the investigation/trial, as the case may be;
3. The petitioner 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 petitioner shall not commit an offence similar to the offence of which he is accused;
5. The petitioner will not seek unnecessary adjournments during the trial;
6. The petitioner will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be;
7. The petitioner shall plant 25 saplings of indigenous fruit bearing or shady trees on the side of the road/street of the place of residence of petitioner 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 petitioner 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 petitioner shall file an affidavit disclosing compliance of this condition within 30 days in the Registry, failing which this court may consider cancellation of bail.
8. On complying with condition No.7 aforesaid, the petitioner 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

petitioner resides is directed to assist the petitioners/accused to comply with condition No.7 by extending all possible financial and material assistance to the petitioner 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 Dept duly authorised in that behalf disclosing as to whether petitioner has complied with condition No.7 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 petitioner for execution of the order in the interest of the ecology.

For the time being this case stands disposed of.

C.c as per rules.