
(2019) 10 MP CK 0090

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 42440, 42482 Of 2019

Rajesh Singhal And Ors

APPELLANT

Vs

State Of Madhya Pradesh And Anr

RESPONDENT

Date of Decision : 17-10-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 34, 323, 376

Citation : (2019) 10 MP CK 0090

Hon'ble Judges : Anand Pathak, J

Bench : Single Bench

Advocate : Prashant Sharma, M.M. Tripathi

Judgement

This is the first application under Section 438 of the Cr.P.C filed by the applicant, who apprehends his arrest in connection with Crime No.405/2019, registered at Police Station-Madhoganj, District Gwalior for the offences punishable under Sections 323, 376 and 34 of IPC.

It is submitted by learned counsel for the applicant that false case has been registered against him and he is apprehending his arrest on the basis of offence registered above. He is father-in-law of the prosecutrix and allegation of rape cannot be attributable over him. Even otherwise contents of the F.I.R. indicate that immediately after the marriage/reception on 11.07.2019 relationship turned soured from 12.07.2019 onwards which appears to be improbable.

Learned counsel for the applicant referred certain photographs wherein prosecutrix visited her maternal home to celebrate Rakhi festival. Her due medical care has been taken by the applicant and medical papers are also attached with the application. Confinement would bring him social disrepute and personal inconvenience.

Learned counsel for the applicant further submits that the applicant shall cooperate in the investigation/trial and would not be a source of embarrassment

and harassment to the complainant party in any manner. He undertakes to perform community service and is ready to donate 25 trees guards alongwith saplings to the forest department for taking drive of plantation/forestation. He will cooperate in the investigation/trial and would make himself available as and when required by the Investigating Officer. He will plant 5 saplings and owned the same and shall give undertaking for the same. Therefore, under these undertakings, the applicant may be given the benefit of anticipatory bail.

Learned Public Prosecutor for the State opposed the prayer.

Heard learned counsel for the parties.

Considering the submissions and specially looking to the fact that the applicant is aged 64 years, but without expressing opinion on merits of the case, I deem it appropriate to allow this application under Section 438 of Cr.P.C.. It is hereby directed that in the event of arrest, the applicant shall be released on bail on furnishing a personal bond of Rs.1,00,000/-(Rupees One Lac Only) with one solvent surety of the like amount to the satisfaction of Investigating Officer/ Arresting Authority.

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

1. The applicant shall comply with all the terms and conditions of the bond executed by him;
2. The applicant shall cooperate in the investigation/trial, as the case may be;
3. The applicant shall 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 shall not commit an offence similar to the offence of which he is accused; and he would not move in the vicinity/area of the complainant party and honour his undertaking
5. The applicant shall not seek unnecessary adjournments during the trial; and
6. The applicant shall 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. "वृक्षारोपण के साथ, वृक्षपोषण भी आवश्यक है।" 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 three months for two 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 is directed to plant 5 saplings/tress at Sirol Hills, near New Collectorate, Gwalior and shall protect the tress on his 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.