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**HIGH COURT OF MADHYA PRADESH**

**MCRC.No.54229/2021**

**(Surendra Rawat Vs. The State of M.P.)**

**Gwalior Bench : Dated : 26.11.2021**

Shri Mehmood Khan, learned counsel for the applicant.

Shri PPS Bajita, learned Public Prosecutor for respondent/State.

Sub-Inspector-Kripal Singh Rathore, SHO, Police Station Physical, District Shivpuri is also present in person.

The applicant has filed this third bail application u/S.439 Cr.P.C. for grant of bail. Applicant has been arrested on 19.06.2021 by Police Station Physical, District Shivpuri (M.P.) in connection with Crime No.133/2021 for the offence punishable under Sections 8, 21 NDPS Act.

It is the submission of learned counsel for the applicant that the applicant is suffering confinement since 19.06.2021 and charge-sheet has been filed. As alleged, applicant found in possession 14 grams of smack when he was moving alongwith other co-accused Chatur Singh Kushwaha. Although criminal record of six cases haunt the applicant but they are minor in nature therefore, a chance may be given to him for course correction and to mend his ways and become a better citizen. It is further submitted that applicant undertakes to cooperate in trial and would abide by the terms and conditions as imposed by this Court. It is also submitted that initially in the case in hand, when case diary received, no criminal case was found to be existed against the applicant but counsel for the applicant fairly mentioned in his bail application that applicant has some criminal history and admitted the

said fact. He undertakes to perform community service to purge his misdeeds, if any, by way of plantation and to serve national/environmental/social cause. On these grounds, he prayed for bail.

Counsel for the respondent/State at the outset fairly submits that when earlier bail was dismissed vide order dated 02.09.2021 passed in MCRC.No.43300/2021, then case dairy was having list of criminal cases of applicant and therefore, on the basis of his criminal record, bail application was dismissed. When case dairy came again for this bail application, then at that point of time, no criminal history was available and it appears that applicant does not bear any criminal record but since earlier order contained reference of criminal history therefore, as per direction of this Court, affidavit of SHO, Police Station Physical, Shivpuri has been filed.

Counsel for the State further referred the contents of affidavit in which course of events have been mentioned and it has been specifically stated that SHO, Police Station Physical had no lapse on his part. In fact, wireless message regarding no criminal history of applicant was sent by Constable- Lokendra Singh-Batch No.660 who is posted at Police Station Karera and it was his duty to give correct details of criminal record of applicant because all six cases were registered at Police Station Karera. Since Constable did not state the correct facts and on wireless reply referred the fact that applicant does not bear any criminal record, therefore, believing the same, SHO,

Police Station Physical referred the fact about the applicant as man of no criminal background. SHO, Police Station Physical tenders apology for his mistake and submits that next time he will improve upon the system and would not repeat the lapse in future.

Heard learned counsel for the parties and perused the documents appended thereto.

This is the case where applicant is suffering confinement since 19.06.2021 and he has criminal record for minor offences therefore, a chance be given to the applicant to reform himself and for course correction. Although, this Court intends to allow the bail application but with certain stringent conditions. The application is allowed. It is directed that the applicant shall 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/-** of the like amount to the satisfaction of the 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 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 mark his presence on first and fifteenth day of every month before the trial Court beside other dates as may be given by the trial Court between 10:00 am to 12:30 pm, till conclusion of trial.**

**9. 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.**

10. एतद् द्वारा यह भी निर्देशित किया जाता है कि आवेदक 5 पौधों का (फल देने वाले पेड़ अथवा नीम/पीपल) रोपण करेगा तथा उसे अपने आस पड़ोस में पेड़ों की सुरक्षा के लिए बाड़ लगाने की व्यवस्था करनी होगी ताकि पौधे सुरक्षित रह सकें। आवेदक का यह कर्तव्य है कि न केवल पौधों को लगाया जाए, बल्कि उन्हें पोषण भी दिया जाए। “वृक्षारोपण के साथ, वृक्षापोषण भी आवश्यक है।” आवेदक विशेषतः 6–8 फीट ऊँचे पौधे/पेड़ों को 3–4 फीट गड्ढा करके लगायेगा ताकि वे शीघ्र ही पूर्ण विकसित हो सकें। अनुपालन सुनिश्चित करने के लिए, आवेदक को रिहा किये जाने की दिनांक से 30 दिनों के भीतर संबंधित विचारण न्यायालय के समक्ष वृक्षों/पौधों के रोपण के सभी फोटो प्रस्तुत करने होंगे।

तत्पश्चात्, विचारण के समापन 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 आवेदक द्वारा दिखाई गई किसी भी लापरवाही को नजर अंदाज नहीं कर सकता है। इसलिए आवेदक 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 संक्षिप्त रिपोर्ट विचारण न्यायालय के समक्ष प्रत्येक तीन माह में (अगले छः महीनों के लिए) रखी जायेगी कि "निर्देश" शीर्षक के अंतर्गत रखा जाएगा।

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

आवेदक को अपनी पसंद के स्थान पर इन पौधों/पेड़ों को रोपने की स्वतंत्रता होगी, यदि वह इन रोपे गये पेड़ों की ट्री गार्ड या बाढ़ लगाकर रक्षा करना चाहता है, अन्यथा आवेदक को वृक्षों के रोपण के लिए तथा उनके सुरक्षा उपायों के लिए आवश्यक खर्च वहन करना होगा।

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

यह निर्देश आवेदक 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 appellant that he shall submit photographs by downloading the mobile application (App) prepared at the instance of High Court for monitoring the plantation through satellite/Geo-tagging.**

Before parting, this Court intends to record the trend which is in prevalence of sending either incomplete case diary or material omissions in the case diary and therefore, it hampers the administration of justice. In view of the same, Superintendent of Police, Shivpuri is directed to take note of the situation and issue necessary directions to all the police stations about prompt and fair response in respect of case diary and criminal record, if any, of accused who is seeking bail.

In the present case, an inquiry be conducted in which the lapse of the concerned officer/personnel be ensured specifically the role of Constable- Lokendra Singh-Batch No.660, Police Station Karera and thereafter, ensure appropriate action if any officer including the constable is found guilty of the misconduct.

A copy be given to the Superintendent of Police, Shivpuri for information and compliance.

Application stands **allowed and disposed of**.

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

Certified copy as per rules.

**(Anand Pathak)**  
**Judge**

Ashish\*