

HIGH COURT OF MADHYA PRADESH

M.Cr.C. No.11643/2020

(Tilakraj Rajoriya Vs. State of M.P.)

Gwalior, Dated:24.06.2020

Shri Rajesh Pathak, learned counsel for the applicant.

Shri Rohit Mishra, learned Additional Advocate General for the respondent/State.

Matter is heard through Video Conferencing.

The applicant has filed this **second** bail application u/S.439 Cr.P.C for grant of bail. Applicant has been arrested on 22.01.2020 by Police Station Dehat, District Ashoknagar in connection with Crime No.27/2020 registered for offence under Sections 354 of IPC and 7/8 of POSCO Act. His earlier bail application was dismissed as withdrawn vide order dated 12.02.2020 passed in MCRC.No.6214/2020.

It is the submission of learned counsel for the applicant that false case has been registered against him and he is suffering confinement since 22.01.2020 whereas charge-sheet has already been filed. Now, applicant learnt the lesson hard way and would not commit the same nature of offence in future and would not involve in any criminal activity and become a better citizen. He undertakes to cooperate in trial and would not be a source of

embarrassment or harassment to her and her family in any manner and would not move in the vicinity of prosecutrix. Applicant who is young/middle aged/able bodied responsible citizen undertakes to become corona warrior for social cause looking to the Covid-19 Pandemic situation. He further undertakes to perform community service and serve the national cause by making contribution in **PM Care Fund** and install **Arogya Setu App**. On these grounds, prayer for bail has been made.

Counsel for the State opposed the prayer and prays for dismissal of bail application.

Heard learned counsel for the parties at length through VC and considered the arguments advanced by them.

Considering the facts of the case in detail, however, considering the fact that in view of Covid-19 pandemic, without commenting on the merits of the case, it is hereby directed that the applicant shall be released on bail on his furnishing personal bond of **Rs.50,000/- (Rupees Fifty Thousand only)** with one solvent surety of the like amount to the satisfaction of trial Court and that he will have to install **Arogya Setu App**, if not already installed. He will not move in the vicinity of prosecutrix and

would not extend any threat, intimidation or allurement to the victim or her family. He will not involve in any criminal activity otherwise benefit of this bail application shall immediately withdrawn.

In view of COVID-19 pandemic, the jail authorities are directed that before releasing the applicant, his preliminary Corona Virus test shall be conducted and if he is found negative, then the concerned local administration shall make necessary arrangements for sending the applicant to his house, and if he is found positive then the applicant shall be immediately sent to concerned hospital for his treatment as per medical norms. If the applicant is fit for release and if he is in a position to make his personal arrangements, then he shall be released only after taking due travel permission from local administration. After release, the applicant is further directed to strictly follow all the instructions which may be issued by the Central Govt./State Govt. or Local Administration for combating the Covid-19. If it is found that the applicant has violated any of the instructions (whether general or specific) issued by the Central Govt./State Govt. or Local Administration, then this order shall automatically lose its effect, and the Local Administration/Police Authorities shall

immediately take him in custody and would sent him to the same jail from where he was released.

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 will inform the SHO of concerned police

station about his residential address in the said area and it would be the duty of the Public Prosecutor to send **E-copy** of this order to SHO of concerned police station for information.

8. Applicant shall deposit Rs.2500/- within a month in PM CARES Fund having Account Number : 2121PM20202, IFSC Code: SBIN0000691, SWIFT Code : SBININBB104, Name of Bank & Branch : **State Bank of India, New Delhi Main Branch from the date of release of applicant.**

9. The applicant through his counsel undertakes that applicant shall register himself with the District Magistrate concerned [Ashoknagar] as “Covid-19 Warriors” by entering his name in a Register named as COVID-19 WARRIOR REGISTER to be maintained in the o/o the concerned DM who in turn shall assign work to applicant of Covid-19 disaster management at the discretion of District Magistrate, by taking all prescribed precautions. The nature, quantum and duration of the work assigned is left to the the wisdom of District Magistrate, concerned. This Court expects that the applicant shall rise to the

occasion to serve the society in this time of crises to discharge his fundamental duty of rendering national service when called upon to do so, as per Article 51-A(d) of the Constitution.

10. As per the undertaking given by learned counsel on behalf of the applicant, it is hereby directed that appellant shall **plant 1 sapling (either fruit bearing trees or Neem and Peepal) alongwith tree guards or has to make arrangement for fencing for protection of the trees** because it is the duty of the appellant not only to plant the saplings but also to nurture them. " वृक्षारोपण के साथ, वृक्षापोषण 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 report shall be submitted by the appellant before the trial Court concerned on 1st of every month.

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 appellant regarding compliance. Therefore, trial Court is directed to submit a report regarding progress of the trees and the compliance made by the appellant 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 shall disentitle the appellant from benefit of bail.

The appellant is directed to plant these saplings/ trees **at the place of his choice**, if he intends to protect the trees on his own cost by providing tree guards or fencing, for which appellant shall have to bear necessary expenses for plantation of the trees and their measures for safeguard.

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."

The District Magistrate concerned is directed to intimate this Court in case condition No.9 is not complied with and on receipt of any such intimation, Registry is directed to list the matter before appropriate bench as PUD.

E- copy of this order be sent to the trial Court concerned for compliance, if possible, for the office of this Court.

Certified copy/ e-copy as per rules/directions.

Ashish*

(Anand Pathak)
Judge