#### HIGH COURT OF MADHYA PRADESH

#### MCRC.No.17464/2022

(Rinku Sharma Vs. The State of M.P.)

Gwalior Bench, Dated: 13.04.2022

Shri Prem Singh Bhadoriya, learned counsel for the applicant.

Shri Rohit Shrivastava, learned Panel Lawyer for the respondent/ State.

Ms. Ayusi Vyas, learned counsel for the complainant.

The applicant has filed this **fourth** bail application u/S.439 Cr.P.C. for grant of bail. Applicant has been arrested on 04.09.2019 by Police Station Dimni, District Morena (M.P.) in connection with Crime No.30/2018 for the offence punishable under Sections 307, 147, 148, 149 of IPC and Section 25, 27 of Arms Act.

Third bail application was dismissed as withdrawn with liberty to renew the prayer after statement of injured witness/victim by this Court vide order dated 16.03.2022 passed in M.Cr.C.No.5610/2022.

It is the submission of learned counsel for the applicant that applicant is suffering confinement since 04.09.2019 and suffered more than 30 months of incarceration as pretrial detention. Material prosecution witnesses including statement of injured witness Karamchandra (PW-5) has been held before trial Court, therefore, chance of tampering with evidence/witnesses is remote. Counsel for the applicant fairly submits that applicant has tainted background of 14 cases in which some of cases acquittal has been recorded but he presses for bail on the ground of period of custody and the fact that

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material prosecution witnesses have been examined, however he undertakes that applicant shall not involve in criminal activities in future and would not be a source of embarrassment and harassment to the complainant side in any manner and would not move in their vicinity. Applicant further intends to perform some community service to purge himself out of the guilt felt by the applicant and to serve national/environmental/social cause. On these grounds, he prays for bail.

Learned counsel for the respondent/State opposed the prayer on the ground of criminal record of applicant and submitted that applicant may cause damage/injuries to the complainant side if he is released on bail. In case of bail, stringent conditions may be imposed.

Learned counsel for the complainant raised the point of criminal record of applicant and submitted that he may cause embarrassment and harassment to the complainant side if he releases on bail.

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

Considering the submissions and specially the fact that material prosecution witnesses have been examined and applicant suffered long period of incarceration as pretrial detention, therefore this Court intends to allow the application but looking to his tainted criminal background, stringent conditions are being imposed over him. It is

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hereby directed that the applicant shall be released on bail, on his furnishing personal bond of Rs.1,00,000/- (Rupees One Lac Only) alongwith two solvent sureties like amount to the satisfaction of trial Court.

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 be a source of embarrassment or harassment to the complainant party in any manner and applicant will not seek unnecessary adjournments during the trial;
- 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 not move in the jurisdiction of

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Police Station Dimni, District Morena till conclusion of trial and would not be a source of embarrassment and harassment to the complainant side in any manner either in person or by somebody or through electronic or other devices, else benefit of bail shall be immediately withdrawn.

- 8. Applicant shall mark his presence on first and fifteenth day of every month before the Police Station Kotwali, District Morena, till conclusion of trial.
- 9. एतद् द्वारा यह निर्देशित किया जाता है कि आवेदक 10 पौधों का (यथासंभव कोई भी फल देने वाले पेड़ अथवा नीम/पीपल जैसे पेड़) रोपण करेगा तथा उसे अपने आस पड़ोस में पेड़ों की सुरक्षा की व्यवस्था करनी होगी ताकि पौधे सुरक्षित रह सके। आवेदक का यह कर्तव्य है कि न केवल पौधों को लगाया जाऐ, बल्कि उन्हें पोषण भी दिया जाए। "वृक्षारोपण के साथ, वृक्षापोषण भी आवश्यक है।" आवेदक संभवतः 6–8 फीट ऊंचे 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 करना होगें। तत्पश्चात्, विचारण के समक्ष प्रगति रिपोर्ट प्रस्तुत की जाएगी।

वृक्षों की प्रगति पर निगरानी रखना विचारण न्यायालय का कर्तव्य है

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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 आवदेक द्वारा किये गये अनुपालन की एक संक्षप्ति रिपोर्ट इस न्यायालय के समक्ष प्रत्येक तीन माह में (अगले छः महीनों के लिए) रखी जायेगी जिसे कि "निर्देश" शीर्ष 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 / पेडों को रोपने की स्वतंत्रता होगी, यदि वह इन रोपे गये पेडों की ट्री गार्ड या बाड़ लगाकर रक्षा करना चाहता है, तो वह अपने स्वंय के व्यय पर यह करने के लिये स्वतंत्र होगा।

इस न्यायालय द्वारा यह निर्देश एक परीक्षण प्रकरण के तौर पर दिए गए हैं तािक हिंसा और बुराई के विचार का प्रतिकार, सृजन एवं प्रकृति के साथ एकाकार होने के माध्यम से सामांजस्य स्थापित किया जा सके। वर्तमान में मानव अस्तित्व के आवश्यक अंग के रूप में दया, सेवा, प्रेम एवं करूंणा की प्रकृति को विकसित करने की आवश्यकता है क्योंकि यह मानव जीवन की मूलभूत प्रवृतियां हैं और मानव अस्तित्व को बनाए रखने के लिए इनका पुनर्जीवित होना आवश्यक है।

"यह प्रयास केवल एक वृक्ष के रोपण का प्रश्न न होकर बल्कि एक विचार के अंकुरण का है।"

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यह निर्देश आवेदक के द्वारा स्वतः व्यक्त की गई सामुदायिक सेवा की इच्छा के कारण दिया गया है जो स्वैच्छिक है।

It is expected from the applicant that he shall submit photographs by downloading the mobile application (NISARG App.) prepared at the instance of High Court for monitoring the plantation through satellite/Geo-Tagging.

Application stands allowed and disposed of.

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

Certified copy as per rules.

(Anand Pathak)
Judge

AK/-