

HIGH COURT OF MADHYA PRADESH
BENCH AT GWALIOR

:SINGLE BENCH:

{HON'BLE SHRI JUSTICE ANAND PATHAK}

MISCELLANEOUS CRIMINAL CASE NO.17346/2021

**Bharat Jatav
Vs.
State of Madhya Pradesh & Anr.**

Shri Vivek Vyas, learned counsel for the applicant.
Shri Ankur Modi, learned Additional Advocate General and Shri Kuldeep Singh, learned Public Prosecutor for respondent No.1/State.
None for respondent No.2.

ORDER
{Passed on 2nd day of September, 2021}

1. The applicant has filed this fourth bail application under Section 439 Cr.P.C for grant of bail. Applicant has been arrested on 21-08-2019 by Police Station Badarwas, District Shivpuri in connection with Crime No.206/2019 registered for offence punishable under Sections 376(2)(स) of IPC and Sections 3/4, 5/6 of the Protection of Children from Sexual Offences Act, 2012. His earlier bail applications were dismissed as withdrawn.
2. Earlier bail application of applicant was dismissed for want of DNA report because allegations were such where DNA report was required to be placed before the Court for arriving to any conclusion. At the time of deciding first bail application of the applicant under Section 439 of Cr.P.C., this Court raised expectation for establishment of State Forensic Sciences

University and suggested the State Government to explore the possibility of realization of concept on ground. Since then, a committee under the aegis of Additional Chief Secretary, Home Department was also formed but more or less nothing shaped up in concrete manner.

3. This Court time and again reiterated suggestion in different bail applications because this Court regularly witnesses long pendency of cases (bail applications as well as criminal trials before the trial Court) because of long queue of DNA or Ballistic reports from the concerned authority. This Court records its appreciation for valuable assistance given so far by the FSL Sagar and other FSL establishments across the State as well as Cyber Crimes Investigation Center, Bhopal but this Court feels that still much is to be done in the field of Forensic Sciences and its use in Administration of Justice and Legal Education.
4. It is not out of place to mention that **High Court of Madhya Pradesh through its Arrears Committee -Cum -Case Management Committee -Cum -Committee for State Court Management System in its resolution dated 18-07-2020 has directed the State Government to take necessary measures to establish institution like National/State Forensic Sciences University to strengthen the concept of “Rule of Law”.** This resolution was reiterated in meetings dated 11-06-2021 and

recently on 25-08-2021. In pursuance to earlier resolution, Department of Law, Bhopal vide letter dated 15-07-2021 requested the Additional Chief Secretary, Home Department, Bhopal for providing updates in the matter but till date no update, has been provided by the concerned Department.

5. Although in pursuance to earlier direction dated 15-06-2021, brief note has been filed by the Government counsel in which two noticeable things have been mentioned; *One*, State Government is improving DNA test facility by way of establishing Regional Labs at Bhopal and Indore and *Second*, Letter dated 03-05-2021 of Additional Director General, (Technical Services), Police Headquarters, Bhopal whereby he has explained the importance of issue to Secretary Home Department, Government of Madhya Pradesh about establishment of such University. Said letter incorporates the list of institutions in M.P. which are imparting teaching in Forensic Sciences subjects.
6. Said explanation of Additional DG, Police appears worth recognition. But at the cost of repetition, this Court reiterates that approach of Authorities in M.P. regarding establishment of Forensic Sciences University is still myopic and reason appears to be their approach to equate the Forensic Sciences subjects with DNA or FSL report only whereas Forensic Sciences subjects go much beyond. **It not only includes DNA**

sampling/FSL examination but also incorporates Ballistic Sciences, Data Retrieval Mechanism, CCTV Footage Retrieval, Cyber Crimes Investigation, Finger Prints Technology, Opinion of Handwriting Expert in Questioned Document, Scene of Crime Investigation and much beyond. It can include concepts like Lab for Food Safety and Adulteration, Spurious Drugs and Cosmetics Testing and other issues related to crime investigation or for administration of justice.

7. Therefore, Forensic Sciences does not mean only DNA report or Blood Sampling or FSL report as it goes much beyond and if we wish to march with time, then Society and State agencies have to be well equipped with technologies. When Artificial Intelligence, Robotics and Drone Technologies are knocking at the doors, then policy makers or stakeholders cannot place “Rule of Law” or “Adjudication Process” at the mercy of archaic method of investigation and prosecution. Police investigation and prosecution in Courts cannot lie at the altar of statement of witnesses alone but it should be based upon scientific way of investigation and Police Officers, Public Prosecutors and Trial Judges ought to be well equipped with the subjects and tools of Forensic Sciences.
8. Therefore, establishment of said university as referred in earlier order dated 22-01-2020 in M.Cr.C.No.45393/2019 would serve

three purposes if comes into existence:

- i- University would offer course of Graduation and Post Graduation in different streams like Data Retrieval, CCTV Footage, DNA Sampling or Ballistic Sciences or Cyber Crime etc. therefore, State would have fresh and vibrant pool of intellectual resources where new experts would come out to enrich “Intellectual Capital of State” and new job prospects would open up for them. Therefore, it would serve the purpose of employment generation as well as widening of Intellectual Horizon of this State.
- ii- Under the aegis of University, regional colleges would serve as regional labs and scientific intervention of Forensic Sciences tools would improve the level of investigation as well as criminal trials, ultimately leading to higher conviction rate while saving innocent persons from false implication. **Time has come when 'Rule of Law' must be treated as one of the essential components of infrastructure (like Roads, Water, Electricity and Communication), so that development of other components of infrastructure may not be sacrificed at the altar of mis-governance.**
- iii- University and its colleges would serve as training centers for all Police Officers, Judges and Public Prosecutors and

when they would be well equipped with the scientific way of investigation and prosecution, then level of investigation and adjudication would improve.

9. All above discussed purposes go to the root of the matter and would strengthen working of Police as well as Courts, therefore, purpose of establishment of University is to be seen from this perspective also. Therefore, this Court realising the practical difficulties faced by the trial Courts (of State) time and again, is reiterating this suggestion.
10. One should not forget that recently our country has suffered jolt of COVID-19 pandemic, **therefore, research branch of Virology and Hospital/Medical Equipments Management can also be a part of this University; if advised so by experts where study over local contagious and communicable diseases from water (and diseases due to exposure to some minerals) can also be undertaken.** One cannot be oblivious of the fact that Cyber World and Crimes arise out of it are new challenges which may compromise National or State Security and Economic Activities also. Therefore, research and development of different facets of Cyber Crimes can also be taken care of as one of the departments in the said University.
11. More such clues can be taken from Gujarat Forensic Sciences University, Gandhinagar or Lok Nayak Jayaprakash Narayan National Institute of Criminology and Forensic Sciences, Delhi.

Recently, Uttar Pradesh Government has also taken initiative for establishment of Forensic Sciences Institute at Lucknow.

University is a holistic approach where continuous research and development in Criminology or Forensic Sciences or related subjects can be carried out.

12. Although lack of resources/finance is a routine explanation to counter such exigency and apparently prudent so, but it can be addressed through self-finance courses or some other viable modes. **Even otherwise, creation of Intellectual Wealth, Job Creations and State Security are non-negotiable attributes and any welfare State has to be committed to it.** Here, all three organs of State (Legislature, Executive and Judiciary) share the constitutional vision of dispensation of **Justice**, an attribute given primacy over all other attributes in Preamble of our Constitution.
13. Shri Modi, learned Additional Advocate General suggested that if through video-conferencing, Officers of the Home Department are connected on the next date of hearing, then it would be better for Government side to get across the thought and concept in correct perspective. Suggestion of learned AAG appears to be reasonable.
14. In view of the above, the discussion made above is for the Policy Makers to ponder and come out with their suggestions and problem, if any on next date of hearing.

- 15.** Additional Chief Secretary, Home Department and Principal Secretary, Law of State of Madhya Pradesh, Bhopal are requested to appear before this Court through video-conferencing on next date of hearing for further orders.
- 16.** List on **14-09-2021**.
- 17.** Copy of this order be supplied to Shri Ankur Modi, learned AAG for further communication and compliance.

(Anand Pathak)
Judge

Anil*