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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE VISHAL DHAGAT
ON THE 19th OF JUNE, 2023
MISC. CRIMINAL CASE No. 24589 of 2023**

BETWEEN:-

1. JERALD ALAMEDA

2. LIJI JOSEPH D/O JOSEPH, &

.....APPLICANTS

*(BY SHRI BRIAN D'SILVA - SENIOR ADVOCATE WITH SHRI ISHAN SONI -
ADVOCATE)*

AND

**THE STATE OF MADHYA PRADESH THROUGH STATION
HOUSE OFFICER, POLICE CHOWKI JHINJRI, POLICE
STATION MADHAVNAGAR DISTRICT KATNI (MADHYA
PRADESH).**

.....RESPONDENT

*(BY SHRI H.S. RUPRAH - ADDITIONAL ADVOCATE GENERAL AND SHRI
S.K. SHRIVASTAVA - GOVERNMENT ADVOCATE)*

.....
*This application coming on for admission this day, the court passed the
following:*

ORDER

This is *first* application filed by the applicants under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail relating to FIR No. 461/2023, registered at Police Station-Madhavnagar, District Katni (MP) for the offence under Sections 75 of Juvenile Justice (Care and Protection of Children)

Act, 2015 and Section 3 and 5 of M.P. Freedom of Religion Act, 2021.

2. Learned Senior Counsel appearing for applicants submitted that applicants are innocent and falsely being implicated in the case. Applicant No. 1 is Arch Bishop of Roman Catholic Church, Diocese of Jabalpur and District Katni falls within his territorial jurisdiction. Applicant No. 2 is Sister of Convent. Asha Kiran Institute was established in year 2005 in District Katni by Roman Catholic Church. Infrastructure, building and space was provided by Railways. It is submitted that management of institute is done as per statutory provisions. It is submitted that Section 54 of Juvenile Justice (Care and Protection of Children) Act, 2015 provides for inspection of Child Care institute through Inspection Committee comprised of not less than three members, of whom at least one should be woman and one Medical Officer. Inspection is to be done once in three months. It is submitted that contrary to the provisions of Act, complainant Shri Prank Kanungo carried out inspection of Asha Kiran institute on 29.05.2023 in individual capacity. On basis of said inspection, FIR is registered against applicants under Section 7 of Juvenile Justice (Care and Protection of Children) Act, 2015 and Section 3 and 5 of M.P. Freedom of Religion Act, 2021. During inspection, it was found that Hindu children were forced to read Bible and visit church. Allegations are also made that children are not allowed to celebrate Diwali and forced to do christian prayer. It is submitted that FIR cannot be registered by police on complaint of Shri Prank Kanungo. Section 4 of M.P. Freedom to Religion Act, 2021 provides that police officer shall not inquire or investigate a complaint unless written complaint is submitted by person converted or his parents or siblings or with the leave of the Court by any person who is related by blood, marriage or adoption, guardianship or custodianship to the person aggrieved. Police had committed an error in

registering FIR and investigating the case. No offence has been committed by applicants under Section 75 of Juvenile Justice (Care and Protection of Children) Act, 2015. If children are found with Bible or were making prayer in Church, same cannot be said to be religious conversion. In these circumstances, applicants be released on anticipatory bail.

3. Learned Additional Advocate General appearing for State opposed the prayer for grant of anticipatory bail. It is submitted that act of applicants is squarely covered under Section 3 of M.P. Freedom of Religion Act, 2021. Section 3 of Act of 2021 makes offence of conversion or attempt to convert punishable under Section 5. Act of conversion is punishable with imprisonment not less than 1 year and may extend to 5 years and if aggrieved person or victim is minor women or person belonging to SC/ST, imprisonment shall not be less than 2 years, which may be extended to 10 years and liable to fine of Rs. 50,000/- and in case of mass conversion, punishment shall not be less than 5 years but may be extended to 10 years and shall also be liable to fine of Rs. 1 lac. It is submitted that this is a case of mass conversion as more than two children in Child Care Home are forced to read Bible, visit Church and offer prayer forcefully, therefore, offence is serious in nature. It is submitted that on going through statement of children of Asha Kiran Institute, it is clear that attempt was made to convert the children. They were forced to read Bible and make prayers in Church, therefore, attempt to convert as defined in Section 3(1) (a) is made out and applicant No.1 and 2 are abetting offence and conspiring for conversion, therefore, their act is punishable under Section 5 of M.P. Freedom of Region Act. In these circumstances, application filed by applicants for grant of anticipatory bail be dismissed.

4 . Additional Advocate General further placed reliance on judgment passed by Apex Court in case of P. Chidambaram vs Directorate of Enforcement in Criminal Appeal and submitted that anticipatory bail has to be granted in exceptional circumstances and not as a matter of rule. Further, reliance is placed on 2021 SCC OnLine SC 315, Niharika Infrastructure Pvt. Ltd. vs State of Maharashtra and others and argued that whenever interim order of no coercive action is passed by High Court then same may be specific and High Court must clarify what does it mean by no coercive steps to be adopted. In view of aforesaid facts and circumstances, Additional Advocate General appearing for State prays for dismissal of application for grant of anticipatory bail.

5. Heard the counsel for the parties.

6. Section 53 of Juvenile Justice (Care and Protection of Children) Act, 2015 lays down the services to be provided by institutions registered under Juvenile Justice (Care and Protection of Children) Act, 2015, which are reproduced as under :- सत्यमेव जयते

"(i) basic requirements such as food, shelter, clothing and medical attention as per the prescribed standards;

(ii) equipment such as wheel-chairs, prosthetic devices, hearing aids, braille kits, or any other suitable aids and appliances as required, for children with special needs;

(iii) appropriate education, including supplementary education, special education, and appropriate education for children with special needs:

Provided that for children between the age of six to fourteen years, the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009) shall apply;

(iv) skill development;

(v) occupational therapy and life skill education;

(vi) mental health interventions, including counselling specific to the need of the child;

(vii) recreational activities including sports and cultural activities;

(viii) legal aid where required;

(ix) referral services for education, vocational training, de-addiction, treatment of diseases where required;

(x) case management including preparation and follow up of individual care plan;

(xi) birth registration;

(xii) assistance for obtaining the proof of identity, where required; and

(xiii) any other service that may reasonably be provided in order to ensure the well-being of the child, either directly by the State Government, registered or fit individuals or institutions or through referral services."

7. Education which has been described in Section 53(1)(iii) does not mean religious education. Management of shelter homes is to be provide secular education to students, which will result in their growth. Education means modern education which will be helpful in growth of children and will also help them in earning livelihood in later part of their life. It is also provided that children between 6 to 14 years has right to get free and compulsory education under Free and Compulsory Education Act, 2009. They are to be taught skill development, occupational therapy and life skill education but, said Section does not provide for religious education. Therefore, Asha Kiran Institute, Katni, which is registered under Juvenile Justice (Care and Protection of Children) Act, 2015 shall not provide religious education to orphans or children admitted therein. They are required to provide education as defined in Section 53 of Juvenile Justice (Care and Protection of Children) Act, 2015. Therefore, ***it is for***

the State Government to see that religious education is not imparted in shelter homes to children but they are imparted modern education, as laid down in Section 53 of Juvenile Justice (Care and Protection of Children) Act, 2015. As per Section 53, State Government is free to take action in accordance with Juvenile Justice (Care and Protection of Children) Act, 2015 against Asha Kiran Care Institute if there is violation of Section 53 and sectarian education is provided to children.

8. Section 75 of Juvenile Justice (Care and Protection of Children) Act, 2015 provides for punishment and sentence of three years only. Police Officer shall not inquire or investigate a complaint under Section 3 of M.P. Freedom of Religion Act, 2021 unless said complaint is a written complaint by a person aggrieved, who has been converted or attempt has been made for his conversion or by person who are parents or siblings or with leave of the Court by any person who is related by blood, marriage or adoption, guardianship or custodianship, as may be applicable. In the present case, **complaint has been lodged by an individual who conducted inspection. No complaint has been made by person converted or person aggrieved or against whom attempt is made for conversion or by their relatives or blood relatives. In absence of such written complaint, police does not have any jurisdiction to inquire or investigate into offence committed under Section 3 of Act of 2021.**

9. In view of aforesaid facts and circumstances of the case, anticipatory bail application filed by the applicants are **allowed**.

10. It is directed that in the event of arrest of applicants by the police in the aforesaid FIR, applicants shall be released on anticipatory bail on their furnishing a personal bond in the sum of **Rs.1,00,000/- (Rupees One Lac**

only) each with two solvent sureties in the like amount to the satisfaction of the Arresting officer (Investigating Officer)/trial Court for his regular appearance before the Police during the investigation or before the Court during trial.

11. It is directed that applicants shall abide by the conditions enumerated in sub-section (2) of Section 438 of the Cr.P.C.

12. Certified copy as per rules

**(VISHAL DHAGAT)
JUDGE**

vkt

