

(2023) 12 MP CK 0037

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 54567 Of 2023

Bhagwandas Banjara

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 08-12-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 41A, 309, 439
Madhya Pradesh Excise Act, 1915 — Section 34(2)

Citation : (2023) 12 MP CK 0037

Hon'ble Judges : Sanjeev S Kalgaonkar, J

Bench : Single Bench

Advocate : Ashirbad Dwivedi, Purushottam Tanwar

Final Decision : Allowed

Judgement

Sanjeev S Kalgaonkar, J

This first bail application has been filed by applicant under section 439 of the Code of Criminal Procedure, 1973 for grant of bail in connection with Crime No 308/2023 registered at Police Station Dehat, District Sheopur (M.P.), for an offence punishable under section 34(2) of the Excise Act. The applicant is in judicial custody since 30/11/2023.

According to the prosecution case, on secret information, on 24/09/2023 Shri D.R. Morya, ASI alongwith police force reached near Bada of the applicant, Village Malhotra and intercepted the applicant. Applicant was found to be in possession of one can containing country made raw liquor quantity 55 bulk liters, therefore, offence punishable under Section 34(2) of M.P. Excise Act was registered by Police Station Dehat, District Sheopur (M.P.). Applicant has cooperated in the investigation on the notice under Section 41-A of the Cr.P.C. Thereafter, final report was filed in his absence on 30/11/2023. Applicant was arrested on 30/11/2023, he is in custody ever since. Learned Counsel for the applicant, in addition to the grounds mentioned in the application, submits that

applicant has been falsely implicated in this\ matter. He is a resident of Village Malhotra, Police Station Dehat, District Sheopur. He is sole bread earner in the family and there is no likelihood of his absconding leaving family and property. No criminal antecedent is reported against the applicant. No further custodial interrogation is needed. Jail incarceration is causing financial hardship to the family of the applicant. The alleged offence is triable by Judicial Magistrate First Class. The trial would take time to complete. Therefore, applicant may be extended the benefit of bail.

Per contra, learned Counsel for the State opposes the bail application.

Heard learned learned counsel for the parties and perused the case diary.

Considering the arguments advanced by both the parties and overall circumstances of the case but without commenting on merits of the case, this Court is inclined to release the applicant on bail. Thus, the application is allowed.

Accordingly, it is directed that the applicant BHAGWANDAS BANJARA shall be released on bail in connection with Crime No 308/2023 registered at Police Station Dehat, District Sheopur (M.P.), for an offence punishable under section 34(2) of the Excise Act, upon furnishing a personal bond in the sum of Rs. 50,000/- (Rs. Fifty Thousand Only) with one solvent surety of the same amount to the satisfaction of the Trial Court, for compliance with the following conditions, :

1. The applicant shall remain present on every date of hearing as may be directed by the concerned Court;
2. The applicant shall not commit or get involved in any offence of similar nature;
3. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them/him/her from disclosing such facts to the Court or to the investigating officer;
4. The applicant shall not directly or indirectly attempt to tamper with the evidence or allure, pressurize or threaten the witness;
5. The applicant shall ensure due compliance of provisions of Section 309 of Cr.P.C regarding examination of witness in attendance;

This order shall be effective till the end of trial. However, in case of breach of any of the pre-condition of bail, it shall become ineffective without reference to the Court.

CC as per rules.