

(2022) 12 MP CK 0016

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.57025 Of 2022

Bhaiyyu Khan @ Ayyaz

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 05-12-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 437(3), 439
Madhya Pradesh Excise Act, 1915 — Section 34(2)

Citation : (2022) 12 MP CK 0016

Hon'ble Judges : Pranay Verma, J

Bench : Single Bench

Advocate : Juned Ahmed Khan, Rahul Solanki

Final Decision : Allowed

Judgement

Pranay Verma, J

1. They are heard. Perused the case diary /challan papers.
2. This is the First application under Section 439 of Criminal Procedure Code, 1973, as the applicant is implicated in connection with Crime No.570/2022 registered at Police Station Sitamau, District Mandsaur (MP) for offence punishable under Section 34(2) of the M.P. Excise Act.
3. The applicant is in custody since 02.10.2022.
4. The allegation against the applicant is that from the possession of applicant 60 bulk litre unauthorized country made liquor has been seized.
5. Counsel for the applicant submits that he has not committed any offence alleged by the prosecution. He is in jail since 02.10.2022. Investigation is complete and challan has been filed. Final conclusion of trial is likely to take sufficient long time and material produced by the prosecution appears to be insufficient against him. Therefore, the applicant be released on bail.

6. Counsel for the respondent/State, on the other hand, has opposed the prayer by submitting that applicant is having five criminal antecedents under the provisions of the IPC and prays for rejection of the application.

7. After considering the rival submissions made by the learned counsel for the parties and going through the case diary, in the opinion of this Court looking to the amount of liquor seized from the possession of the applicant and the period of custody already undergone by him, it is a fit case for grant of bail.

8. Accordingly, without commenting on the merits of the case, the application filed by the applicant is allowed. The applicant is directed to be released on bail upon furnishing a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety of the like amount to the satisfaction of the trial Court for his regular appearance before the trial Court during trial with a condition that he shall remain present before the court concerned during trial and shall also abide by the conditions enumerated under Section 437 (3) Criminal Procedure Code, 1973.

9. This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Certified copy as per rules.