

(2020) 08 MP CK 0124

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 27822 Of 2020

Bijju @ Brijendra Tiwari

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 26-08-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 309, 439

Madhya Pradesh Excise Act, 1915 — Section 34(1), 34(2), 59A

Citation : (2020) 08 MP CK 0124

Hon'ble Judges : Subodh Abhyankar, J

Bench : Single Bench

Advocate : Rajesh Kumar Sen, Sapan Usrethe

Final Decision : Disposed Of

Judgement

Heard and perused the case diary through video conferencing.

This is the repeat (second) application under Section 439 of the Cr.P.C. filed on behalf of the applicant, who is in custody since 06.06.2020 in connection with Crime No.126/2020 registered at Police Station Kothi, District Satna (M.P.) for the offence punishable under Section 34(2) of the M.P. Excise Act, 1915. The earlier application of the applicant i.e. M.Cr.C. No.18949/2020 was dismissed as not pressed by this Court on 16.07.2020.

Learned counsel for the applicant has submitted that the charge-sheet in the present case has already been filed and the applicant is in jail since 06.06.2020. It is further submitted that so far as the criminal antecedents of the applicant are concerned the first offence was committed by the applicant in the year 2009 and earlier out of 4 cases he has been imposed with fine under Section 34(1) of the Excise Act, whereas the 4th case which was registered against the applicant under Section 34 (2) of the Excise Act he has already been acquitted. The judgment of acquittal has also been placed on record. It is further submitted that the final conclusion of trial is likely to take sufficiently long time on account of

COVID-19 situation, hence the counsel prays for grant of bail.

Learned counsel for the State on the other hand has opposed the prayer and has submitted that looking to the criminal antecedents of the applicant his application be dismissed. It is further submitted that the applicant has also committed an offence under Section 59 (A) of the Excise Act and for the same reason the application for bail cannot be allowed. It is further submitted that if the applicant is released on bail, the chances of his committing the same offence cannot be ignored.

Having considered the rival submissions of the parties and after perusing the case diary as also taking note of the fact that the applicant is in jail since 06.06.2020 and the charge-sheet has already been filed and the fact that the earlier cases registered against him were in the year 2009 and prior there to only in one of the cases he has already been acquitted, this Court is of the considered opinion that the applicant can be released on bail with certain conditions, accordingly, the application is hereby allowed.

Accordingly, it is directed that applicant-Bijju @ Brijendra Tiwari shall be released from custody upon furnishing a personal bond of Rs.1,00,000/- (Rupees One Lakh Only) with a solvent surety of the like amount to the satisfaction of the concerned Court for his appearance before the concerned Court on all the dates of hearing fixed in this behalf by the Court concerned during trial. The prison authorities are also requested to ensure compliance with the order passed by the Supreme Court in Writ Petition No.1/2020 and ensure, that the applicant is examined by the jail doctor before his release.

If the applicant shows symptoms of COVID-19, the doctor shall forthwith direct him to be produced before the appropriate hospital designated for the detection and treatment of COVID-19 patients. If the doctor is of the opinion that the applicant is not affected with the virus, the jail authorities shall ensure his transportation from the jail till his place of residence.

With the above the application is finally disposed of.

It is further made clear that if it is found that the applicant is involved in any other criminal case regardless of its nature during the trial, this bail order shall stand cancelled automatically without reference to the Court and the Police will be at liberty to arrest the applicant.

A typed copy of this order is being forwarded to the Office of the Advocate General and to the learned Panel Lawyer, on their respective email address, for intimation to the Police Station concerned. The office is requested to forward a copy of this order to the concerned Court.

Certified copy as per rules.