

(2020) 12 MP CK 0133

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.49703 Of 2020

Jallu @ Jalor Kuchbandhia

APPELLANT

Vs

State Of M.P

RESPONDENT

Date of Decision : 15-12-2020

Acts Referred:

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

Citation : (2020) 12 MP CK 0133

Hon'ble Judges : Rajendra Kumar Srivastava, J

Bench : Single Bench

Advocate : Rambihari Gautam, Manoj Kushwaha

Final Decision : Allowed

Judgement

Rajendra Kumar Srivastava, J

This is first bail application filed by the petitioner under Section 439 of the Code of Criminal Procedure.

The petitioner is in custody since 19.11.2020 in connection with Crime No.355/2020 registered at P.S.-Reethi, District-Katni (M.P.) for the offence

punishable under Section 34(2) of M.P. Excise Act.

Prosecution story, in short, is that on 19.11.2020, on receiving an information from an informant, police of concerned P.S. seized 65 bulk liters hand

made liquor (Mahua) from the possession of the petitioner and registered the aforesaid offence against him.

Learned counsel for the petitioner submits that petitioner is innocent person and has been falsely implicated in this case. No liquor was seized from his

possession. Petitioner/accused has no previous criminal antecedent, therefore, there is no probability to repeat the offence. Petitioner is in jail since

19.11.2020. Investigation is complete. No custodial interrogation is required in this case. Petitioner is breadwinner of his family member. If he is kept

in jail for unlimited period, then future of his family member will be spoiled. Due to spread of COVID-19, further proceedings of trial is withheld in the

trial Court, therefore, trial will take time for final disposal. There is no probability of his absconding or tampering the evidence of prosecution witness.

On these grounds, learned counsel for the petitioner prays for allowing this bail application.

Per-contra, learned Panel Lawyer opposes the bail application. Considering the contention of both the parties and this fact that petitioner/accused has

no previous criminal antecedent, therefore, there is no probability to repeat the offence. Petitioner/accused is in jail since 19.11.2020. Investigation is

complete. No custodial interrogation is required in this case. Petitioner is breadwinner of his family member. Due to spread of COVID-19, further

proceedings of trial is withheld in the trial Court, therefore, trial will take time for final disposal. There is no probability of his absconding or tampering

the evidence of prosecution witness.

In view of the aforesaid, it would not be appropriate to keep the petitioner in jail during whole trial. Therefore, without commenting on merits of the

case, application of the petitioner under Section 439 of the Cr.P.C. seems to be acceptable. Consequently, it is hereby allowed.

It is directed that petitioner- Jallu @ Jalor Kuchbandhia be released on bail on his furnishing a personal bail bond in the sum of Rs. 50,000/- (Rupees

Fifty Thousand Only) with one solvent surety in the like amount to the satisfaction of the learned trial Court for his appearance before the trial Court

on the dates given by the concerned Court. It is directed that the petitioner shall comply with the provisions of Section 437(3) of the Cr.P.C. In view

of the outbreak of 'Corona Virus disease (COVID-19)' the petitioner shall also comply the rules and norms of social distancing.

Further, in view of the order passed by the Hon'ble Supreme Court i n suo motto W.P.No.1/2020, it would be appropriate to issue the following

direction to the jail authority :-

1. The Jail Authority shall ensure the medical examination of the petitioner by the jail doctor before his release.

2 . The petitioner shall not be released if he is suffering from 'Corona Virus

disease'. For this purpose appropriate tests will be carried out.

3 . If it is found that the petitioner is suffering from 'Corona Virus disease', necessary steps will be taken by the concerned authority by placing him in appropriate quarantine facility.

Certified copy as per rules.