
(2021) 08 MP CK 0137

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.41308 Of 2021

Kamlesh S/O Kaniram Ji Rawat Meena

APPELLANT

Vs

State Of M. P

RESPONDENT

Date of Decision : 23-08-2021

Acts Referred:

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

Citation : (2021) 08 MP CK 0137

Hon'ble Judges : Rohit Arya, J

Bench : Single Bench

Advocate : Snajay Kumar Sharma, Sudhanshu V. Vyas

Final Decision : Allowed

Judgement

Rohit Arya, J

This is the second bail application under Section 439 Cr.P.C. First application of the applicant was dismissed as withdrawn with liberty to revive the

prayer after eight weeks on 17/06/2021 vide M.Cr.C.No. 29248/2021. Now the eight weeks' period is over. The applicant is in custody since

30/03/2021 in connection with Crime No.79/2021 registered at Policed Station "Jeeran, District Neemuch for the offence punishable under Section

34(2) of the M. P. Excise Act.

As per prosecution story, applicant was found to be in unauthorized possession of 864 bulk litres of illicit liquor unauthorizedly and illegally.

Accordingly, case has been registered.

Investigation is complete and charge-sheet has been filed. Learned counsel for the applicant submits that applicant is innocent and he has been falsely

implicated in the offence. He is not required for custodial interrogation as investigation is complete and Challan has been filed. He has no criminal antecedents. It is further submitted that applicant has already suffered jail incarceration since 30/03/2021 and because of his jail incarceration, his family is in penury and on the verge of starvation. Applicant is a young person aged about 22 years and he has also suffered mental agony and embarrassment in the company of hardened criminals. Besides, looking to the COVID-19 situation, trial is not likely to conclude early in the near future. Hence, the applicant may be enlarged on bail on such terms and conditions this Court deems fit and proper.

Per contra, learned Panel Lawyer supports the order impugned and opposes the bail application.

At this stage, learned counsel for the applicant, on instructions graciously and voluntarily submits that looking to the grave critical social economic condition of poor persons living in old age homes, Vidhwa Ashrams or orphans living in orphanage, the applicant is prepared to deposit a sum of

Rs.1,00,000/- (Rupees One Lac Only) in the office of Jila Bal Sanrakshan Samiti, Neemuch (State Bank of India Account

No.031854494225 IFSC Code SBIN0030055 for the purpose of providing basic amenities, clothing, food/food items and other essential amenities

required for old age people living in old age homes, vidhwas living in vidhwa aashrams, orphans living in orphanage and also to sufferers of COVID-19

Pandemic in the city of Neemuch as well as for providing facility of Bio Gas Plant (Gobar Gas) to poor villagers/agriculturists for enabling them to

avail the LPG gas for domestic purpose. However, the aforesaid deposit of amount may not influence the pending trial but is only, for enlargement of applicant on bail.

Upon hearing learned counsel for the parties, but without touching merits of the contentions so advanced, regard being had to the fact that applicant

has suffered jail incarceration since 30/03/2021 having no criminal antecedents, not required for further custodial interrogation and due to COVID-19

pandemic, possibility of delay in conclusion of trial cannot be ruled out, in light of the liberty granted to the applicant on 17/06/2021 and in the obtaining

facts and circumstances of the case, he is held entitled for enlargement on bail.

Consequently, the application of the applicant filed under Section 439 of the

Criminal Procedure Code, 1973 is hereby allowed. It is directed that the applicant be released on bail on furnishing personal bond in the sum of Rs.3,00,000/- (Rupees Three Lacs Only) with one solvent surety in the like amount to the satisfaction of the learned Trial Court and on the condition that he shall remain present before the Court concerned during trial and also comply with the conditions enumerated under Section 437 (3) of Criminal Procedure Code, 1973 with following further conditions:-

(i) the applicant will prepare demand draft of an amount of Rs.1,00,000/- (Rupees One Lac Only) in favour of Jila Bal Sanrakshan Samiti, Neemuch

(State Bank of India Account No.031854494225 IFSC Code SBIN0030055 to be utilized for providing clothing, food and other essential amenities

required for old age people living in old age homes, vidhwas living in vidhwa aashrams, orphans living in orphanage in the District, physically

challenged persons and to sufferers of COVID-19 Pandemic as well as for providing facility of Bio Gas Plant (Gobar Gas) to poor

villagers/agriculturists for enabling them to avail the LPG gas for domestic purpose and the same shall have no bearing on merits of the trial but for

enlargement of the applicant on bail and obtain a receipt.

(ii)(a) the applicant will submit the aforesaid original demand drafts along with copy of the order passed today through his counsel before the Principal

Registrar of this Bench, for keeping the same in his safe custody.

(ii)(b) as and when directed the Principal Registrar shall seek instructions/directions through PUD from this Court for handing over the demand drafts

to the concerned authority in that behalf.

(ii)(c) The Registry is directed to accept the original demand drafts without mentioning the account number therein. However, ensure that the same is

in relation to the present case.

(iii) the aforesaid authority is at its discretion to utilize the amount so deposited as and where it is required upon verification. The Collector, Neemuch

is also directed to maintain a separate account (for production of the record as and when directed for).

(iv) the applicant will submit an attested photocopy of the receipt before the Principal Registrar of this Bench, for placing the same on record of this

case. The Principal Registrar shall produce the same as and when required by this Court in the form of PUD.

(v) the applicant shall mark his attendance before the concerned Police Station on 2nd and 4th Saturday of every month between 10.00 AM to 12.00

Noon.

(vi) the applicant shall abide by the terms and conditions of various circulars and orders issued by the Government of India and the State Government

as well as the local administration from time-to-time in the matter of maintaining social distancing, physical distancing, hygiene, etc., to avoid

proliferation of Novel Corona virus (COVID-19);

(vii) the concerned jail authorities are directed that before releasing the applicant, the medical examination of the applicant be conducted through the

jail doctor and if it is prima-facie found that they are having any symptoms of COVID-19, then the consequential follow up action or any further test

required be undertaken immediately. If not, the applicant will be released on bail in terms of the conditions imposed in this order;

(viii) violation of conditions, State is free to apply for cancellation of bail.

(ix) in future, if the applicant is found to be involved in such nature of cases or any other similar criminal cases or misuse the bail granted by this Court,

this bail order shall stand cancelled automatically.

Learned Panel Lawyer is directed to send an e-copy of this order to all the concerned including the concerned Station House Officer of the Police

Station for information and necessary action.

E-certified copy as per rules.