

(2020) 02 MP CK 0167

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 6726 Of 2020

Karan

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 25-02-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Madhya Pradesh Excise Act, 1915 — Section 34, 34(2), 49(A)
Indian Penal Code, 1860 — Section 323, 394, 506

Citation : (2020) 02 MP CK 0167

Hon'ble Judges : Virender Singh, J

Bench : Single Bench

Advocate : Ashish Gupta, R.K. Pathak

Final Decision : Allowed

Judgement

1. This is first bail application under Section 439 of Cr.P.C. in connection with Crime No.1203/2020 registered at Police Station "Excise Circle, District-Barwani under Section 34(2), 49(A) of M.P. Excise Act.
2. This case is prepared by the Excise Sub-Inspector. According to the case, after receiving information when the Departmental Officers laid a trap on 28/01/2020, after sometime they noticed a person coming on bike with 2 jerry cans filled with 60 bulk liters of illicit liquor on both the sides left and right. As they tried to stop him, he left the motorcycle with cans and fled away taking advantage of the dark. The motorcycle was having no number plate, therefore, its owner was traced on the basis of engine number, chasis number, then it is found that it belongs to the petitioner.
3. The contention of the learned counsel for the petitioner is that he was not found on the spot. There is no evidence of identification that he was the

person, who fled away from the spot. The police has foisted a false case. On the same day, the police have arrested him in one other case bearing

Crime No.955/19 by the same officials of the same Excise Circle. In that case also the prosecution alleged that the person carrying country made

liquor on a boat managed to escape. This is very strange coincidence that on both the time it was the petitioner, who successfully dodged the officials.

This makes the prosecution case doubtful, therefore, he be granted bail.

4. Objection of the learned Public Prosecutor is that the petitioner has criminal record. Earlier 3 criminal cases bearing Crime No.262/16 & 955/19

both under Section 34 of Excise Act and Crime No.151/18 under Section 394, 323 & 506 of IPC have been registered against him, therefore, he is not

entitled for the bail.

5. Considering the quantity of illicit liquor and identification of the petitioner and other facts and circumstances of the case, I deem it proper to allow

the bail application. Therefore, without commenting on merits of the case, the application is allowed.

6. It is directed that the petitioner Karan S/o Mohan Kevat be released from custody on his furnishing a personal bond in the sum of Rs.20,000/- (Rs.

Twenty Thousand) with one solvent surety of the like amount to the satisfaction of the Trial Court for his appearance before the Trial Court as and

when required further subject to the following conditions:

(i) The petitioner shall co-operate in the trial and shall attend the trial Court during the trial;

(ii) The petitioner shall not directly or indirectly allure or make any inducement, threat or promise to the prosecution witnesses, so as to dissuade them

from disclosing such facts of the Court;

(iii) The petitioner shall not commit any offence or involve in any criminal activities;

(iv) In case, involvement in any other criminal activity is found, the bail granted in this case may also be cancelled.

(v) The petitioner shall mark his appearance at Police Stationâ"Excise Circle, District-Barwani in the first week of every month.