

(2022) 03 MP CK 0012

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 11828 Of 2022

Kishan Kapoor

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 07-03-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438, 438(2)
Madhya Pradesh Excise Act, 1915 — Section 34(2)
Evidence Act, 1872 — Section 27

Citation : (2022) 03 MP CK 0012

Hon'ble Judges : Vijay Kumar Shukla, J

Bench : Single Bench

Advocate : Anirudh Saxena, Ranjeet Sen

Final Decision : Allowed

Judgement

Vijay Kumar Shukla, J

This is the first application of the applicant under Section 438 of Cr.P.C. for grant of anticipatory bail in connection with Crime no.140/2020 registered at Police Station Boda, Rajgarh for the offences under Section 34(2) of the Excise Act.

Learned counsel for the applicant submits that identically placed co-accused persons namely Yashpal and Baljeet have been granted anticipatory bail by this Court.

It is submitted that the applicant has been made accused only on the basis of memorandum recorded under section 27 of the Evidence Act. Apart from the memorandum of co-accused Prahlad and Baljeet, there is no other connecting evidence against the present applicant.

Learned counsel for the respondent/state has opposed the prayer on the ground that as per CDR, there is a conversation between the co-accused Prahlad and the applicant.

However, taking into consideration that the similarly placed co-accused persons namely Yashpal and Baljeet, who were made accused on the basis of memorandum under section 27 of the Evidence Act has already been granted anticipatory bail, the present applicant is also entitled for grant of bail.

Accordingly, the present application stands allowed.

It is directed that in the event of arrest, applicant shall be released on bail on his furnishing a personal bond in a sum of Rs.50,000/- (Rs.Fifty Thousand Only) with one surety in the like amount to the satisfaction of arresting officer. The applicant shall further abide by the other conditions enumerated in sub-section (2) of Section 438 of Cr.P.C.