

(2021) 07 MP CK 0200

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.36897 Of 2021

Maresh Chouhan S/O Basantlal Chouhan

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 28-07-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 437(3), 439
Indian Penal Code, 1860 — Section 188, 420
Epidemic Diseases Act, 1897 — Section 3
Essential Commodities Act, 1955 — Section 3, 7
Evidence Act, 1872 — Section 27

Citation : (2021) 07 MP CK 0200

Hon'ble Judges : Subodh Abhyankar, J

Bench : Single Bench

Advocate : Hires Pandey, Geetanjali Chourasia

Final Decision : Allowed

Judgement

Subodh Abhyankar, J

They are heard. Perused the case diary / challan papers.

This is the applicant's first application under Section 439 of Criminal Procedure Code, 1973, as he is arrested in connection with Crime No.483/2021

registered at Police Station Vijay Nagar, Indore District Indore (MP) for offence punishable under Sections 420 and 188 of the Indian Penal Code,

1860, under Section 3 of Epidemic Diseases Act, 1897 and also under Section 3 read with Section 7 of Essential Commodities Act, 1955.

The applicant is in custody since 07.05.2021.

The allegation against the applicant is one of sale of Remdesivir Injections, as he was found in possession of two Remdesivir Injections which were to

be sold by him on much higher price than the original market price.

Counsel for the applicant has submitted that the applicant has been falsely implicated in the case, as he is a homeopathy doctor and was posted in

SNG Hospital in COVID Duty and while posted in SNG Hospital, he also came in contact with other co-accused Anand Jha s/o Ashok Jha on whose

memo under Section 27 of the Evidence Act, the applicant has been falsely implicated.

Counsel has further submitted that so far as recovery of Remediesvir Injections are concerned, since the applicant was posted as a Doctor in COVID

Duty itself, the recovery cannot be said to be unnatural.

Thus, counsel for the applicant has submitted that the applicant, who is in jail since 07.05.2021, be released on bail and his bail application be allowed.

Counsel for the respondent / State, on the other hand, has opposed the prayer and it is submitted that the applicant was also involved in the conspiracy

to sell the injections at a higher price and as such, no case for grant of bail is made out.

Having considered the rival submissions and on perusal of the case diary and taking note of the fact that the applicant is a Homeopathy Doctor and is

in jail since 07.05.2021 and there is no material available on record to suggest that the applicant had actually sold injection to any person, this Court

finds force with the contentions raised by the counsel for the applicant and is inclined to allow the present bail application.

Accordingly, without commenting on the merits of the case the application filed by the applicant stand allowed. The applicant is directed to be released

on bail upon furnishing a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount to the

satisfaction of the trial Court for his / her regular appearance before the trial Court during trial with a condition that he / she shall remain present

before the court concerned during trial and shall also abide by the conditions enumerated under Section 437 (3) Criminal Procedure Code, 1973.

It is also observed that if the applicant is found in any of the criminal activities, after his / her release on bail, then the present bail order shall stand

cancelled without further reference to this Court; and the State / prosecution will be free to arrest the accused in the present case also.

This order shall also be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Certified copy as per rules.