

(2021) 05 MP CK 0032

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.21400 Of 2021

Mukesh Malak S/O Hira Lal

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 05-05-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 437(3), 439

Madhya Pradesh Excise Act, 1915 — Section 34(1)(a), 34(2), 45

Indian Penal Code, 1860 — Section 294, 323, 506

Citation : (2021) 05 MP CK 0032

Hon'ble Judges : Subodh Abhyankar, J

Bench : Single Bench

Advocate : Surendra Tuteja,, Geetanjali Chourasi

Final Decision : Allowed

Judgement

Subodh Abhyankar, J

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

This is the applicant's second bail application under Section 439 of Criminal Procedure Code, 1973. He is implicated in connection with Crime

No.853/2020 registered at Police Station Kotwali Dewas, District Dewas (MP) for offence punishable under Sections 34 (2) and 45 of the Madhya

Pradesh Excise Act, 1915.

The applicant is in jail since 26.11.2020.

The allegations against the applicant are that he was found in possession of 60 bulk liters of unauthorized liquor.

Counsel for the applicant has submitted that the earlier bail application Miscellaneous Criminal Case No.4281/2021 was dismissed by this Court on

03.03.2021 as withdrawn.

Counsel for the applicant has submitted that the investigation is almost complete and he is not required for further interrogation / investigation. The

applicant is in jail since last more four months as he was arrested on 26.11.2020.

Counsel has further submitted that the final conclusion of the trial is likely to take sufficiently long time on account of fresh spread of COVID-19.

Thus, it is submitted that the applicant be released on bail.

Counsel for the State, on the other hand, has opposed the prayer and it is submitted that four more cases have been registered against the applicant.

In rebuttal, counsel for the applicant has submitted that out of the aforesaid four cases, two cases have been registered against the applicant under

Section 34(1)(a) of the MP Excise Act and the other two cases were registered against him under Sections 294, 323 and 506 of IPC; and out of

which, one matter has already been compounded. However, he submits that no other case under Section 34 (2) of MP Excise Act has been registered

against the applicant.

Having considered the rival submissions, taking note of the fact that the applicant is in jail since 26.11.2020 and the final conclusion of the trial is likely

to take sufficiently long time in the wake of fresh spread of COVID-19 and also taking note of the liquor which is 60 bulk liters, the application

deserves to be allowed.

Accordingly, without adverting to the merits of the case, the application filed by the applicant is hereby 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) 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 to be involved in any criminal activities, after his 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 be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Certified copy as per rules.