

(2021) 09 MP CK 0029

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.43445 Of 2021

Raghu @ Radhu S/O Ditiya Damor

APPELLANT

Vs

State Of M.P

RESPONDENT

Date of Decision : 03-09-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 437(3), 439
Madhya Pradesh Excise Act, 1915 — Section 34(2), 36, 46

Citation : (2021) 09 MP CK 0029

Hon'ble Judges : Pranay Verma, J

Bench : Single Bench

Advocate : Abhay Saraswat, Shaswat Seth

Final Decision : Allowed

Judgement

Pranay Verma, J

This is the First application under Section 439 of Criminal Procedure Code, 1973, as he is implicated in connection with Crime No.719/2021 registered at Police Station Jhabua, District Jhabua (MP) for offence punishable under Sections 34(2), 36, 46 of the M.P. Excise Act.

The applicant is in custody since 18.07.2021.

The allegation against the applicant is that from the possession of applicant 60 bulk litre unauthorized country made liquor has been seized.

Counsel for the applicant submits that he has not committed any offence alleged by the prosecution. He is in jail since 18.07.2021. Investigation is complete and challan has been filed. Final conclusion of trial is likely to take sufficient long time and material produced by the prosecution appears to be insufficient against him. Therefore, the applicant be released on bail. Counsel for the respondent/State, on the other hand, has opposed the prayer and submitted that there is another case registered against the applicant under Section 34(2) of the Excise Act and

prays for rejection of the application.

After considering the rival submissions made by the learned counsel for the parties and going through the case diary, in the opinion of this Court looking to the amount of liquor seized from the possession of the applicant and the period of custody already undergone by him, it is a fit case for grant of bail.

Accordingly, without commenting on the merits of the case, the application filed by the applicant is 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 regular appearance before the trial Court during trial with a condition that he 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.