

(2023) 01 MP CK 0114

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 4671 Of 2023

Rakesh

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 30-01-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 41A, 438M, 438(2)
Madhya Pradesh Excise Act, 1915 — Section 34(2)

Citation : (2023) 01 MP CK 0114

Hon'ble Judges : Subodh Abhyankar, J

Bench : Single Bench

Advocate : Akhilesh Kumar Saxena, Hitendra Tripathi

Final Decision : Allowed

Judgement

Subodh Abhyankar, J

They are heard.

Perused the case diary / challan papers.

This is FIRST application under Section 438 of Criminal Procedure Code, 1973 (herein after referred to as the Code) filed on behalf of the applicant for grant of anticipatory bail, as the present applicant is apprehending his / her arrest in connection with Crime No.18/2022 registered at Police Station Narsingharh, District Rajgarh (MP) for offence punishable under Section 34 (2) of the Madhya Pradesh Excise Act, 1915.

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

Learned counsel for the applicant has submitted that he was initially arrested along with 60 bulk liters of unauthorized liquor, however, he was released after giving a notice under Section 41-A of the Code.

Counsel has also submitted that the date of incident is 09.01.2022 and the applicant has not misused the liberty extended to him, however, at the time of filing of the charge sheet (as the same was not filed within the limitation of six months), the applicant is apprehending that he might be arrested and would be sent behind the bar; and thus, it is submitted that the application be allowed.

Counsel for the respondent / State, on the other hand, has opposed the prayer. However, it is not denied that the applicant was given a notice under Section 41-A of the Code and there are no criminal antecedents against him.

Having considered the rival submissions and on perusal of the case diary and taking note of the fact that the applicant was not earlier arrested during the course of investigation and was issued a notice under Section 41-A of the Code, this Court finds that no purpose would be served to send the applicant behind the bar at this stage, as the charge sheet has already been filed.

Accordingly, the application stands allowed. It is directed that in the event of arrest, applicant Rakesh S/o Chunnilal Kushwaha shall be released on bail, upon executing a personal bond in the sum of Rs.25,000/- (rupees twenty five thousand only) and furnishing solvent surety in the like amount to the satisfaction of the Arresting Officer (Investigating Officer).

The applicant shall make himself / herself available for interrogation by a Police Officer, as and when required. He / she shall further abide by the other conditions enumerated in Sub Section (2) of Section 438 of the Code of Criminal Procedure, 1973.

Accordingly, Miscellaneous Criminal Case No.4671/2023 stands allowed.

Certified copy as per rules.