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(2021) 09 MP CK 0035

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.43783 Of 2021

Shankar Banjara — APPELLANT

Vs

State Of Madhya Pradesh — RESPONDENT

Date of Decision : 06-09-2021

Acts Referred:
Code Of Criminal Procedure, 1973 — Section 439
Madhya Pradesh Excise Act, 1915 — Section 34(2)

Citation : (2021) 09 MP CK 0035

Hon'ble Judges : Rajeev Kumar Shrivastava, J

Bench : Single Bench

Advocate : O.P. Mathur, Kuldeep Singh

Final Decision : Disposed Of

Judgement

Rajeev Kumar Shrivastava, J

This is first application under Section 439 of CrPC for grant of bail. The applicant has been arrested on 12/8/2021 in connection with Crime No.73/2021 registered at Police Station Chhachar, District Shivpuri for offence under Section 34 (2) of Excise Act.

It is submitted by learned counsel for applicant Shankar Banjara that the allegation of recovery of 60 bulk litres of illicit liquor from the possession of the applicant is false. He has not committed any offence. It is further submitted that the applicant is in jail since last almost one month. Investigation is complete and charge-sheet has been filed. Trial will take long time to conclude. The applicant has no criminal history. It is also submitted that in case of grant of bail, in addition to the conditions imposed by this Court, applicant is ready and willing to deposit a sum of Rs.4,000/- with the High Court Legal Aid Services Authority for treatment of visually impaired children. Hence, prayed for grant of bail to the applicant.

Per cotran, learned State counsel opposed the bail application and has submitted

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that there are criminal history of four cases against the present applicant.

Considering the facts and circumstances of the case, without commenting on merits of the case, the application is allowed and it is hereby directed that the applicant be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety in the like amount to the satisfaction of the Court concerned for his regular appearance before the trial Court concerned on the dates fixed by it.

In view of COVID-19 pandemic, the jail authorities are directed that before releasing the applicant, his Corona Virus test shall be conducted and if it is found negative, then the concerned local administration shall make necessary arrangements for sending the applicant to his house, and if his test is found positive then the applicant shall be immediately sent to concerning hospital for his treatment as per medical norms. If the applicant is fit for release and if he is in a position to make his personal arrangements, then he shall be released only after taking due travel permission from local administration. After release, the applicant is further directed to strictly follow all the instructions which may be issued by the Central Govt./State Govt. or Local Administration for combating the Covid19. If it is found that the applicant has violated any of the instructions (whether general or specific) issued by the Central Govt./State Govt. or Local Administration, then this order shall automatically lose its effect, and the Local Administration/Police Authorities shall immediately take him in custody and would send him to the same jail from where he was released.

This order will remain operative subject to compliance of the following conditions by the applicant :-

1. The applicant will comply with all the terms and conditions of the bond executed by him;

2. The applicant will cooperate in the investigation/trial, as the case may be;

3. The applicant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to the Police Officer, as the case may be;

4. The applicant shall not commit an offence of which he is accused;

5. The applicant will not move in the vicinity of complainant party and applicant will not seek unnecessary adjournments during the trial;

6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be;

7 . The applicant will inform the SHO of concerned police station about his residential address in the said area and it would be the duty of the Public Prosecutor to send E-copy of this order to SHO of concerned police station for information.

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8. The applicant shall mark his presence before the SHO of the concerned Police Station on 1st of Every month during the pendency of the trial.

9 . As submitted by learned counsel for the applicant above, applicant is directed to deposit a sum of Rs.4,000/-(Rupees Four Thousand Only) with the Secretary, High Court Legal Aid Services Authority, Gwalior, which shall be utilized for treatment of visually impaired children.

Application stands disposed of in above terms.

E-copy of this order be sent to the trial Court concerned for compliance.

Certified copy/ e-copy as per rules/directions.

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