

(2021) 05 MP CK 0153

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.25035 Of 2021

Shivam S/O Mohanlal Patidar Rakesh S/O Krishna @ Kashan Jaiswal **APPELLANT**

Vs

State Of Madhya Pradesh **RESPONDENT**

Date of Decision : 24-05-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 437(3), 439
Madhya Pradesh Excise Act, 1915 — Section 34(2)
Evidence Act, 1872 — Section 27

Citation : (2021) 05 MP CK 0153

Hon'ble Judges : Subodh Abhyankar, J

Bench : Single Bench

Advocate : Mukesh Sinjonia, Sagar Muley

Final Decision : Allowed

Judgement

Subodh Abhyankar, J

This is the applicants' first bail application under Section 439 of Criminal Procedure Code, 1973. They are implicated in connection with Crime

No.898/2020 registered at Police Station Lasudia, District Indore (MP) for offence punishable under Section 34 (2) of the Madhya Pradesh Excise Act, 1915.

The applicants are in jail since 05.02.2021.

The allegation against the applicants is that they were involved in the aforesaid offence wherein 405 bulk liters of unauthorized liquor was seized from

a car / vehicle bearing registration number MP-09 CP-6347.

Counsel for the applicants has submitted that the co-accused Rahul s/o Rameshchandra Chouhan from whose possession the unauthorized liquor was

recovered has already been granted bail in Miscellaneous Criminal Case No.47596/2020 vide order dated 08.04.2021 and the case of the applicants is

that they were also implicated in the case only on the basis of a memo prepared under Section 27 of the Evidence Act and the case of the present

applicants is akin to him. Thus it is submitted that the present bail application be allowed on the ground of parity.

Counsel for the State, on the other hand, has opposed the prayer.

On due consideration of the submissions and taking note of the fact that the co-accused Rahul has already been enlarged on bail and the final

conclusion of the trial is likely to take sufficiently long time in the wake of fresh spread of COVID-19, the application deserves to be allowed.

Accordingly, without adverting to the merits of the case, the application filed by the applicant is hereby allowed maintaining the parity with co-accused

Rahul. The applicants are directed to be released on bail upon each of them furnishing a personal bond in the sum of Rs.1,00,000/- (rupees one lakh)

with one solvent surety of the like amount to the satisfaction of the trial Court for their regular appearance before the trial Court during trial with a

condition that they 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 applicants are found to be involved in any criminal activities, after their 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.