

(2021) 07 MP CK 0192

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.35770 Of 2021

Suresh @ Bhura Chauhan

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 27-07-2021

Acts Referred:

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

Citation : (2021) 07 MP CK 0192

Hon'ble Judges : Rajendra Kumar Srivastava, J

Bench : Single Bench

Advocate : M.K. Tripathi, K.K. Agnihotri

Final Decision : Allowed

Judgement

Rajendra Kumar Srivastava, J

This is first bail application filed by the applicant under Section 439 of the Code of Criminal Procedure.

The applicant is in custody since 28.06.2021, in connection with Crime No.605/2021 registered at Police Station Shikarpura, District Burhanpur (M.P.)

for the offence punishable under Section 34(2) of Excise Act.

As per prosecution case, on 28.06.2021, 79.830 bulk litres whisky and country made liquor was seized from the possession of the applicant/accused.

Learned counsel for the applicant submits that applicant is innocent and has falsely been implicated in this case. He has no previous criminal

antecedent under Section 34(2) of M.P. Excise Act. So there is no probability to repeat the offence. Actually, no liquor was seized from the

possession of present applicant/accused. Applicant/accused is in custody since 28.06.2021. Charge-sheet has been filed. It is the time of COVID-19

Pandemic, due to which conclusion of trial will take long time for its final disposal. There is no probability of his absconding or tampering with the prosecution evidence. He is a labour. He is only bread earner of his family and if he is kept in custody for an unlimited period, then future of his family will be spoiled. On these grounds, learned counsel for the applicant prays for grant of bail to the applicant.

Per contra, learned Panel Lawyer for the respondent/State opposes the bail application by submitting that the applicant/accused has previous criminal antecedents, hence, he is not entitled for regular bail.

Considering the contentions of both the parties and this fact that applicant/accused has no previous criminal antecedent under Section 34(2) of M.P.

Excise Act, so there is no probability to repeat the offence, applicant/accused is in custody since 28.06.2021, charge-sheet has been filed, it is the time

of COVID-19 pandemic, due to which conclusion of trial will take time for its final disposal, there is no probability of his absconding or tampering with

the prosecution evidence, so it is not proper to keep the applicant/accused in jail while the trial, therefore, it would not be appropriate to keep the

accused/applicant in jail during whole the trial, hence, without expressing any opinion on the merits of the case, application of the present applicant

under Section 439 of the Cr.P.C. seems to be acceptable. Consequently, it is hereby allowed.

It is directed that applicant-Suresh @ Bhura Chauhan be released on bail on his furnishing bail bond in the sum of Rs.50,000/-(Rupees Fifty Thousand

Only) with one surety of the same amount to the satisfaction of the J.M.F.C. concerned or trial Court for his appearance before the trial Court on the

dates given by the concerned Court. It is directed that the applicant shall comply with the provisions of Section 437(3) of the Cr.P.C.

Certified copy as per rules.