

(2023) 03 MP CK 0096

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 12530 Of 2023

Vijay Bagde @ Vijay Soni

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 23-03-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438, 438(2)
Madhya Pradesh Excise Act, 1915 — Section 34(2)
Evidence Act, 1872 — Section 27

Citation : (2023) 03 MP CK 0096

Hon'ble Judges : Subodh Abhyankar, J

Bench : Single Bench

Advocate : Navendu Joshi

Final Decision : Allowed

Judgement

Subodh Abhyankar, J

Perused the case diary / challan papers which is made available by the office of the Advocate General.

This is applicant's first application under Section 438 of Criminal Procedure Code, 1973 seeking anticipatory bail, as he is apprehending his arrest in connection with Crime No.270/2020 registered at Police Station Manak Chowk, Ratlam District Ratlam (MP) for offence punishable under Section 34 (2) of Madhya Pradesh Excise Act, 1915.

The allegation against the applicant is that he was also involved in the aforesaid case wherein 60 bulk liter of unauthorized liquor has been seized from the possession of accused persons Arif and Nitin Jain.

It is stated that the applicant was not apprehended on the spot; and in fact, his name has been mentioned on the basis of memo prepared by co-accused Ashok. It is also stated under identical circumstances, the other co-accused Anil and Ankit have already been granted bail by this Court in M.Cr.C.No.3320/2021 dated

23.3.2021. It is further stated that one more case under Section 34(2) of the MP Excise Act has been registered against the applicant.

Having considered the order passed in M.Cr.C. No.3320/2021 and on perusal of the case diary and taking note of the quantity of the liquor as also the fact that the present applicant has been implicated in the case only on the basis of memo of co-accused Ashok prepared under Section 27 of the Evidence Act and there is no other material available in the case diary to connect the present applicant with the offence, in the considered opinion of this court, the applicant has made out a case for grant of anticipatory bail on grounds of parity. Accordingly, the application is allowed.

It is directed that in the event of arrest, applicant shall be released on bail, upon him executing a personal bond in the sum of Rs.50,000/- (rupees fifty thousand only) and furnishing solvent surety in the like amount to the satisfaction of the Arresting Officer (Investigating Officer).

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

Misc. Criminal Case stands allowed.

Certified copy, as per rules.