



IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE RAMKUMAR CHOUBEY

ON THE 13<sup>th</sup> OF MAY, 2026

MISC. CRIMINAL CASE No. 19646 of 2026

*BALLOO @ RAMPAL YADAV*

*Versus*

*THE STATE OF MADHYA PRADESH*

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Appearance:

Shri Phool Chand Paliwal - Advocate for the applicant.

Ms Garima Tiwari - Panel Lawyer for the respondent/State.  
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ORDER

This first application under Section 482 of Bhartiya Nagrik Suraksha Sanhita, 2023 has been filed on behalf of the applicant for grant of anticipatory bail, who is apprehending his arrest in connection with Crime No.146/2026 registered at Police Station Simariya, District Panna, for commission of offence punishable under Section 34(2) of M.P. Excise Act.

2. According to the prosecution case, on 12.04.2026, Police Station Simariya, District Panna, received a credible tip-off indicating that the applicant had stored illicit liquor inside a tapra (cattle shed) used for housing his buffaloes. Acting on this intelligence, the police registered a Dehati Nalsi (Crime No. 0/2026) for an offence punishable under Section 34(2) of the Madhya Pradesh Excise Act. At approximately 20:30 hours on the same date, a police raiding party, which included Constable Ankit Patel and independent witness Raj Bahadur, proceeded to the designated spot. Upon



reaching the tapra, the police spotted two individuals. One of the suspects managed to flee the scene, while the other, identified as Anuj Yadav (nephew of applicant), was apprehended by the police force while attempting to run away. During the subsequent search of the premises, the police discovered a pit (gaddha) covered with a sheet (cheap). Upon uncovering it, the police recovered and seized 65 litres and 700 millilitres of illegal liquor in the presence of the witnesses.

3. Learned counsel for the applicant submits that the applicant is innocent and has been fallaciously implicated in the alleged crime merely on the basis of memorandum of co-accused Anuj, who happens to be nephew of the applicant. He further submits that the applicant is running a business of dairy and nothing has been recovered from the possession of the applicant. He also submits that although the applicant has criminal history, but in most of the cases he has already been acquitted and only one is pending. To reinforce his submission, learned counsel places reliance on an order dated 09.05.2025 passed in M.Cr.C. No.20873/2025 (Ganaram Thakur v. The State of Madhya Pradesh) and also on an order dated 24.09.2025 passed in M.Cr.C. No.42440/2025 (Hariram Chourasiya alias Lallu Chaurasiya), both the orders have been passed by the Coordinate Benches of this Court. On these premise, he prays that the applicant may be granted anticipatory bail.

4. Conversely, learned counsel for the respondent/State submits that the liquor was recovered from a *tapra* owned and occupied by the applicant and rightly the applicant has been held exclusive constructive possession of the seized illicit liquor. She further submits that the applicant has criminal



history of seven cases, out of which, four are under the M.P. Excise Act. He also submits that in view of the provisions of Section 59-A(i) of M.P. Excise Act, this anticipatory bail is not maintainable. Ergo, she prays for outright dismissal of this application.

5. At the stage of bail, the merits of the case are not required to be examined. It is evident from the material placed on record before this Court that the illicit liquor was recovered from the *tapra* owned by the applicant, therefore, it cannot be said that it is a case of no evidence qua the applicant. The factum of criminal antecedents is also undisputed. Quite apart, Section 59-A(i) of M.P. Excise Act prohibits for entertaining anticipatory bail pertaining to offence under Section 34(2) of M.P. Excise Act. So far as the orders, on which reliance has been placed, are concerned, in both the cases, the Coordinate Benches, although extended the benefit of anticipatory bail to the accused charged with Section 34(2) of M.P. Excise Act, but did not discuss anything about the provisions of Section 59-A(i) of M.P. Excise Act.

6. For ready reference, it is apt to quote the relevant provisions of Section 59-A(i) of M.P. Excise Act, as under:-

"59A. Certain offence under the Act to be non-bailable  
- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (No. 2 of 1974) or Section 59 of the Act,-

(i) no application for an anticipatory bail shall be entertained by any court in respect of a person accused of an offence punishable under Section 49-A or in respect of a person not being a person holding a licence under the Act or rules made thereunder who is accused of an offence covered by clause (a) or clause (b) of sub-



section (1) of Section 34 with quantity of liquor found at the time or in the course of detection of such offence exceeding fifty bulk litres.

(ii) xxx xxx "

7. A bare reading of the above-quoted crystalizes the embargo for the courts to entertain anticipatory bail in underlying fact situation of the instant case.

8. The bail is a discretionary domain and the power to grant anticipatory bail is extraordinary in nature. The Supreme Court in **Srikant Upadhyay and others v. State of Bihar and another**, (2024) 12 SCC 382 has observed that *"..Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the court depending on the facts and circumstances of each case. While called upon to exercise the said power, the court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence...."*

9. Of-late, the Supreme Court in the case of **Tusharbhai Rajnikantbhai Shah v. Kamal Dayani** (2025) 1 SCC 753 has observed that the power to grant anticipatory bail should not be exercised in routine manner, but with great degree of circumspection.

10. Considering the overall facts and circumstances, particularly the provisions of Section 59-A(i) of M.P. Excise Act, it is not lawful to entertain



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anticipatory bail application. Ergo, this Court is not inclined to grant anticipatory bail to the applicant.

11. Accordingly, the application is dismissed.

**(RAMKUMAR CHOUBEY)**  
**JUDGE**

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