

**HIGH COURT OF MADHYA PRADESH,**  
**BENCH AT GWALIOR**  
**M.Cr.C. No.29808/2021**  
( Chotu alias Akeel Vs. The State of Madhya Pradesh )  
(1)

**Gwalior, dated : 18/6/2021**

Shri Ravi Dwivedi, Advocate for the applicant.

Shri Purushottam Tanwar, Panel Lawyer for the respondent/State.

**Heard through Video Conferencing.**

I.A. No. 17819/2021, an application for urgent hearing is allowed.

Case diary perused.

The applicant has filed this first application under section 439 of the Cr.P.C. for grant of bail.

The applicant has been arrested by Police Station Janakganj, District Gwalior, in connection with Crime No.31/2021 registered in relation to the offence punishable under section 49(“Ka”) of the M.P. Excise Act 1915.

Allegation against the applicant, in short, is that the police has recovered 05 bulk litres of liquor from the possession of the applicant which was not fit for human consumption. On the basis of aforesaid, crime has been registered.

Learned counsel for the applicant submits that he has been falsely implicated in the case. He is in custody since 17/1/2021. It is submitted that the alleged offence is not made out against the applicant. The offence alleged is triable by JMFC. Attention has also

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been invited to the guidelines issued to all the States and Union Territories by the Apex Court for de-congesting the prisons in suo motu W.P. (C) No. 1/2020 (IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS) to consider release of prisoners who have been convicted or are under trial for offences for which prescribed punishment is up to 7 years or less by constituting a High Powered Committee. The applicant is permanent resident of District Gwalior and there is no likelihood of his absconsion or tampering with the prosecution evidence and he is ready to abide by the terms and conditions as may be imposed. With the aforesaid submissions, prayer for grant of bail is made.

*Per contra*, the application is opposed by the learned Panel Lawyer. It is submitted that the sample has been sent for chemical analysis, but the FSL report has not been received. On these grounds, he prays for rejection of bail.

However, it would not be desirable to enter into the merits of the rival contentions at this juncture.

Considering the overall facts and circumstances of the case coupled with the fact that trial is not likely to conclude in near future and prolonged pre-trial detention being an anathema to the concept of liberty, this Court is inclined to extend the benefit of bail to the applicant.

Accordingly, without expressing any opinion on merits of the case, this application is allowed and it is directed that the applicant

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be released on bail on furnishing a personal bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand only)** with one solvent and local surety of the like amount to the satisfaction of the trial Court/committal Court for his appearance on the dates given by the concerned Court.

The applicant shall also furnish a written undertaking before the concerned court that he will abide by the terms and conditions of various circulars, as well as, orders issued by the Central Government, State Government and local administration from time to time such as maintaining social distancing, physical distancing, hygiene etc. to avoid proliferation of Corona virus.

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 him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. **It is directed that in case it is found in the FSL report that the seized liquor was unfit for human consumption, then this order shall automatically stand recalled and the applicant shall**

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**surrender before the concerning trial Court immediately and in case, if he does not surrender, then the trial Court shall be at liberty to take him into custody.**

**5. The applicant shall not commit any other offence during pendency of the trial, failing which this bail order shall stand cancelled automatically without further reference to the Bench.**

6. The applicant shall install **Arogya Setu App** (if not already installed) in his mobile phone;

7. The applicant will not seek unnecessary adjournments during the trial; and

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

E- copy of this order be sent to the trial Court concerned for compliance, if possible by the office of this Court.

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

**(S.A.Dharmadhikari)**  
**Judge**

(and)