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THE HIGH COURT OF MADHYA PRADESH
M.Cr.C. No.36855/2021
(GOVIND BHADORIYA Vs THE STATE OF MADHYA PRADESH)

Through Video Conferencing

Gwalior, Dated : 03-08-2021

Shri Ravi Dwivedi along-with Shri Neeraj Verma, Counsel for the applicant.

Shri Ravi Ballabh Tripathi, Counsel for the State.

Case diary is available.

This first application under Section 439 of Cr.P.C. has been filed for grant of bail.

The applicant has been arrested on 16.06.2021 in connection with Crime No.366/2021 registered at Police Station Maharajpura Distt. Gwalior for offence under Section 34 (2) of Excise Act, 1915.

It is submitted by the Counsel for the applicant, that according to the prosecution case, 10 boxes of country made liquor were seized from the possession of applicant. He is in jail from 16.06.2021. So far as criminal history of applicant is concerned, it is submitted that in all the offences registered under the different provisions of IPC, the applicant has been acquitted on the ground of compromise or otherwise. However, Shri Dwivedi is not in a position to submit that as to whether the applicant was acquitted on merits or he was acquitted on account of the fact that the witnesses have turned hostile.

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Be that whatever it may be.

It is next contended by Shri Dwivedi that so far as the offences registered under Section 34 or Section 34 (2) of M.P. Excise Act are concerned, the applicant is on bail.

Per contra, the application is vehemently opposed by the Counsel for the State. It is submitted that the applicant has criminal history and as many as 9 criminal cases were registered against him. Out of which, two offence were registered under Section 34 (2) of M.P. Excise Act and two offence were registered under Section 34 of M.P. Excise Act, apart from the other offences registered under the Indian Penal Code. It is submitted by Shri Ravi Ballabh Tripathi that as per the diary, all the criminal cases registered against the applicant are pending and in none of the case, he has been acquitted either on the basis of compromise or otherwise.

Heard learned counsel for the parties.

It is the contention of counsel for the applicant that so far as the offences under sections 34, 34 (2) of M.P. Excise Act are concerned, the applicant has been granted bail.

Whenever a person is granted bail, then one of the condition is that he would not involve himself in an offence in future. Bail is not a license to the accused to commit offence in future also, therefore,

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merely because the applicant has been granted bail, it cannot be said that the applicant has improved himself and is trying to stay away from the offence. On the contrary, commission of offence even after grant of bail clearly indicates that not only applicant has shown inclination towards the commission of offence but also he has misused the liberty which was granted to him by releasing him on bail.

Be that whatever it may be.

The applicant has criminal antecedents and apart from the present case, 4 more offences under the M.P. Excise Act have been registered against him. The applicant has not shown any improvement in his behavior and he is still involved in commission of offence under the M.P. Excise Act.

Under these circumstances, this Court is of the considered opinion that it is not a fit case for grant of bail.

The application fails and is hereby **dismissed**.

(G.S. Ahluwalia)
Judge

Aman