

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV S. KALGAONKAR

ON THE 6th OF DECEMBER, 2023

MISC. CRIMINAL CASE NO. 51477 OF 2023

BETWEEN:-

**BANTI ALIAS SHIVKUMAR, SON OF SHRI PARSHURAM
KOLI, AGED 37 YEARS, OCCUPATION- LABOURER,
RESIDENT OF VILLAGE WARD NO.4, MAGRAUNI,
POLICE STATION NARWAR, DISTRICT SHIVPURI
(MADHYA PRADESH)**

.....APPLICANT

(SHRI B. S. GAUR- ADVOCATE FOR APPLICANT)

AND

**STATE OF MADHYA PRADESH THROUGH POLICE
STATION NARWAR, DISTRICT SHIVPURI (MADHYA
PRADESH)**

.....RESPONDENT

**(SHRI RAJENDRA SINGH YADAV- PUBLIC PROSECUTOR FOR
RESPONDENT- STATE))**

*This application coming on for admission this day, the Court
passed the following order:-*

ORDER

This first bail application has been filed by applicant under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail in connection with Crime No.301 of 2023 registered at Police Station Narwar, District Shivpuri (M.P.) for offence punishable under Section 34(2) of MP Excise Act. Applicant is in judicial custody since 29-10-2023.

As per the case of prosecution, on secret information, on 29-10-2023, ASI Ramdas Narwariya of PS Narwar along with police force intercepted the applicant at the public way near culvert, Khodan Road and from his possession, 60 liters of illicit country-made plain liquor was recovered. On such allegations, PS Narwar registered FIR at Crime No.301 of 2023 for offence punishable under Section 34(2) of MP Excise Act. Applicant was arrested on spot. He is in custody since 29-10-2023. Relevant seizure has been made. Statements of witnesses have also been recorded. Investigation is underway.

Learned Counsel for the applicant, in addition to the grounds mentioned in the application, submits that the applicant has been falsely implicated in the matter. The applicant is permanent resident of District Shivpuri. He is a labourer by profession. He is the sole bread earner of his family. There is no likelihood of his absconsion leaving behind his family and home. There is no likelihood of his tampering with the evidence. Jail incarceration is causing hardship to the applicant. The alleged offence is triable by JMFC. Trial would take time to conclude. Therefore, the applicant may be extended the benefit of bail.

Per contra, learned counsel for State opposes the bail application and cites criminal history of 12 cases against the applicant.

In reply, the learned Counsel for the applicant submits that the applicant was acquitted in connection with Crime Nos.62 of 2011 Crime No.207 of 2018 and in rest of the matters, he was released on bail. He has never been convicted.

Heard learned counsel for the parties and perused the case diary.

Considering the arguments advanced by both the parties and

overall circumstances of the case, but without commenting on merits of the case, this Court is inclined to release the applicant on bail. Thus, the application is allowed.

Accordingly, it is directed that applicant **Banti alias Shivkumar** shall be released on bail in connection with Crime No.301 of 2023 registered at Police Station Narwar, District Shivpuri (M.P.) for offence punishable under Section 34(2) of MP Excise Act upon furnishing a personal bond in the sum of **Rs.50,000/- (Rupee fifty thousand only)** with one solvent surety of the like amount to the satisfaction of the Trial Court, for compliance with the following conditions, :

1. The applicant shall remain present on every date of hearing as may be directed by the concerned Court;

2.The applicant shall not commit or get involved in any offence of similar nature;

3. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the investigating officer;

4. The applicant shall not directly or indirectly attempt to tamper with the evidence or allure, pressurize or threaten the witness;

5. The applicant shall ensure due compliance of provisions of Section 309 of Cr.P.C regarding examination of witness in attendance;

6. The applicant shall mark his presence once in the first week of every month before SHO Narwar, District Shivpuri till completion of investigation.

This order shall be effective till the end of trial. However, in case of breach of any of the pre-condition of bail, it shall become ineffective without reference to the Court.

CC as per rules.

(SANJEEV S. KALGAONKAR)
JUDGE

MKB