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MCRC-28448-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE AMIT SETH

ON THE 23rd OF JULY, 2025MISC. CRIMINAL CASE No. 28448 of 2025*ABHISHEK MOGIYA**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

Shri Brajesh Kumar Tyagi - Advocate for the applicant.

Shri Abhishek Singh Bhadoria - P.P. for the respondent/State.

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ORDER

This is the Second application filed by the applicant u/S. 483 of B.N.S.S. for grant of bail relating to Crime No. 03/2025 registered at Police Station - Gopalpur, District - Shivpuri (M.P.) for the offence under Section 34(1) & 49 (A) of Excise Act. First bail application was allowed by the co-ordinate Bench of this Court vide order dated 17/02/2025 passed in M.Cr.C.No.6950/2025.

2. Learned counsel appearing for the applicant submits that applicant is innocent and has been falsely implicated. He further submits that quantity of liquor recovered from the applicant was 05 bulk liters of illicit liquor. Earlier in the same crime number, applicant was granted conditional bail by co-ordinate Bench of this Court vide order dated 17.02.2025 passed in M.Cr.C.No. 6950/2025. In the said bail order, it was specifically mentioned that in case FSL report is found positive then the said bail order would cancel automatically without further reference to the Court. Now as per FSL report, the seized liquor has been found to be unfit for human consumption and, therefore, bail granted to the applicant has been cancelled by virtue of condition stipulated therein. Learned



counsel for the applicant further submits that by virtue of cancellation of earlier bail application, the applicant is languishing in jail since 19.06.2025. It is further submitted that early conclusion of the trial is bleak possibility and prolonged pre-trial detention is an anathema to the concept of liberty. Applicant is permanent resident of District - Shivpuri (M.P.) and there is no possibility of his absconsion or tampering with the prosecution evidence, if released on bail. Hence, prayed for grant of bail to the applicant.

3. On the other hand, learned State counsel vehemently opposed the bail application and prayed for its rejection.

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

5. Considering the totality of facts and circumstances of the case and the fact that applicant was enlarged on bail by the co-ordinate Bench of this Court vide order dated 17.02.2025 passed in M.Cr.C.No. 6950/2025 and so far as section 49 (A) of M.P. Excise Act is concerned, wherein, seized liquor was found unfit for human consumption, the said aspect is required to be taken into consideration by the trial court at the time of passing the final judgment, this Court is inclined to grant benefit of bail to the applicant by imposing stringent condition, but without expressing any opinion on merits of the case, this application is allowed and it is directed that applicant be released on bail on furnishing a personal bond in the sum of **Rs. 50,000/- (Rupees Fifty Thousand only)** along with one solvent surety in the like amount to the satisfaction of the trial Court/Committal Court.

6. This order will remain operative subject to compliance of the following conditions by the applicant:-

i) The applicant will comply with all the terms and conditions of



the bond executed by him/her;

ii) The applicant will cooperate in the investigation /trial, as the case may be;

iii) The applicant will not indulge himself /herself 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 acts to the Court or to the Police Officer, as the case may be;

iv) The applicant will not commit any other offence in future. In case offence of same nature is repeated, this bail order shall automatically stand cancelled;

v) The applicant will not seek unnecessary adjournments during the trial; and

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

7. Copy of this order be sent to the trial Court concerned for compliance.

8. Certified copy as per rules.

(AMIT SETH)
JUDGE