

High Court of Madhya Pradesh, Jabalpur
Bench at Indore

Miscellaneous Criminal Case No.50303/2018

(Madan s/o Kaluram Ji Maida
Versus
The State of Madhya Pradesh)

Indore, Dated 14.12.2018

Mr. Manan Dhakad, learned counsel for the applicant.

Mr. Abhishek Soni, learned Public Prosecutor for the non-applicant / State of Madhya Pradesh.

They are heard. Perused the case diary.

This first application under Section 439 of Criminal Procedure Code, 1973 has been filed by applicant Madan s/o Kaluram Ji Maida, who is implicated in connection with Crime No.479/2018 registered at Police Station Bilpaak, District Ratlam (MP) for offence punishable under Sections 49 (A), 34, 41 and 42 of the Madhya Pradesh Excise Act, 1915.

The applicant is in custody since 13.11.2018.

As per prosecution story, on 13.11.2018, on the basis of secret information, 10 liters of spirit and 13.320 bulk liters of illicit country made liquor was recovered from the possession of the present applicant.

Learned counsel for the applicant has submitted that though total 10 litre of spirit and 13.320 bulk litre of country made liquor alleged to have been recovered from the possession of the applicant, however, the applicant is innocent and he has falsely been

implicated in the present crime; and there is no chemical analysis report available on record to show that the aforesaid liquor was poisonous or unfit for human consumption. The case registered against the applicant is triable by Judicial Magistrate First Class. The applicant is in custody since 13.11.2018. The investigation is over and charge-sheet has been filed. The present applicant is not having any criminal antecedents and there is no possibility of his absconsion or tampering with the evidence. Conclusion of the trial will take considerable time.

In these circumstances, learned counsel for the applicant prays for grant of bail to the applicant.

Learned Public Prosecutor for the non-applicant / State of Madhya Pradesh submits that no sufficient ground is made out for releasing the applicant on bail, hence the application filed by the applicant be dismissed.

Considering the facts and circumstances of the case and the arguments advanced by learned counsel for the parties, but without commenting on the merits of the case, the application filed by the applicant is allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand Only)** with one solvent surety of the like amount to the satisfaction of the trial Court for his regular

appearance before the trial Court during trial with a condition that he shall remain present before the court concerned during trial and shall also abide by the conditions enumerated under Section 437 (3) Criminal Procedure Code, 1973.

If the report of the Forensic Chemical Analysis is found that the liquor was poisonous or unfit for human consumption, then this order shall automatically be cancelled and the trial Court is at liberty to take the applicant in custody.

This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Certified copy as per rules.

(S.K. Awasthi)
Judge