

High Court of Madhya Pradesh, Jabalpur
Bench at Indore

Miscellaneous Criminal Case No.25798/2020

(Amit s/o Sumer Singh Ji Thakur

Versus

The State of Madhya Pradesh)

Indore, Dated 23.09.2020

Mr. Yogesh Kumar Gupta, learned counsel for the applicant.

Mr. Rajwardhan Gawde, learned Panel Lawyer for the non-applicant / State of Madhya Pradesh.

They are heard. Perused the case diary / challan papers.

This repeat (fourth) application under Section 439 of Criminal Procedure Code, 1973 has been filed by applicant, who is implicated in connection with Crime No.38/2019 registered at Police Station Excise Circle, Internal Area No.1, Indore District Indore (MP) for offence punishable under Section 34 (2) of the Madhya Pradesh Excise Act, 1915.

The applicant is in custody since 14.04.2019.

As per prosecution story, on 14.04.2019, during patrolling, when the police party reached near Anup Talkies, Indore, at that time police got an information from the informer that, one Maruti Van bearing registration number MP-09 CG-6791 came their in which two person were sitting and looking to the police, the person who was sitting on the conductor seat ran away from the place of incident and the person who was driving the vehicle introduced himself

as 'Amit' and police seized 135.00 bulk liter country made liquor from the possession of present applicant / accused.

Learned counsel for the applicant has submitted that the applicant is innocent and he has falsely been implicated in the present crime. 135 bulk liters of illicit country made liquor alleged to have been recovered from the vehicle, which was being driven by the applicant. Learned counsel for the applicant has further submitted that the aforesaid vehicle belongs to one Dhiraj Singh Bhadoriya and he was also present in the aforesaid vehicle, however, after seeing the Police Party, he fled away from the spot. The applicant was only the Driver of the vehicle. The applicant is in custody since 14.04.2019. Looking to criminal antecedents of the applicant, his earlier bail applications were dismissed as withdrawn vide order (s) dated 17.07.2019 and 30.01.2020 passed in Miscellaneous Criminal Case No.29029/2019 and Miscellaneous Criminal Case No.4239/2020. Now, the applicant has already completed more than one year and five months in custody whereas minimum sentence of one year is prescribed for commission of offence punishable under Section 34 (2) of the Madhya Pradesh Excise Act, 1915. The investigation is over and charge sheet has already been filed. Conclusion of the trial will take sufficiently long time. There is no

possibility of his absconsion or tempering the evidence, if enlarged on bail. Learned counsel for the applicant assured that in future applicant will not be faulted with the provision of Section 59 (A) of the M.P. Excise Act, 1915. Under these circumstances, learned counsel for the applicant prays for grant of bail to the applicant.

Learned Panel Lawyer 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 upon furnishing a personal bond in the sum of **Rs.1,00,000/- (rupees one lakh)** with two solvent sureties of **Rs.50,000/- (Rupees Fifty Thousand Only)** to the satisfaction of the trial Court for his regular appearance before the trial Court during trial with a condition that he / she 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.

It is made clear that in future if the applicant is

found involved in any criminal case, then this order shall stand automatically cancelled.

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

Pithawe RC

