

HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE

M. CR. C. Nos. 50579/2020 and 50244/2020

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INDORE, Dated : 13/01/2021

Heard through video conferencing.

Mr. Imram Qureshi and Mr. Sachin Jaiswal, learned counsel for the applicant(s).

Ms. Poorva Mahajan, learned Panel Lawyer for the respondent – State.

This is a repeat bail application (second) filed by applicants Chetan and Sartaj @ Hajari, u/S. 439 of the Code of Criminal Procedure, 1973. The applicants are in custody since 15/10/2020 and 21/10/2020, respectively, in connection with Crime No.366/2020, registered at Police Station Chatripura, Distt. Indore for commission of offence punishable u/Ss. 34(1) (2) of the Excise Act, 1915. Their first applications were dismissed vide order dated 1/12/2020 with liberty to file a fresh application after filing of the challen.

So far as the third accused – Mohammad Mujahid Khan is concerned, he has filed an application u/S. 482 of the Cr.P.C. before this Court. He has not surrendered so far.

As per the prosecution story, the police has recovered 150 Kgs. of *Bhang* and 50 litres of liquor from the possession of applicant – Chetan on 15/10/2020, he was arrested and made accused. In his statement u/S. 27 of the Evidence Act, he has disclosed the name of Sartaj @ Hajari and accordingly he has been made accused and arrested on 21/10/2020. Now, the investigation is complete and challan has been filed.

Learned counsel for the applicant Chetan submits that he has been implicated falsely in the case and the contraband Bhang

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is not belonging to him and it belongs to co-accused Mohammad Mujahid Khan. So far as the past criminal cases are concerned, since last 15 years no fresh criminal case has been registered against him. He is aged about 56 years.

Learned counsel for applicant Sartaj @ Hajari has submitted that he has been implicated falsely on the basis of memo u/S. 27 of the Evidence Act and nothing has been recovered from his possession. There is no criminal track record of the applicant and the trial is likely to take a long time.

Learned Panel Lawyer for the respondent State opposes the bail application.

I have perused the case diary. As the seized article Bhang does not belong to applicant Chetan and there is no fresh criminal track record of the applicant and he is aged about 56 years and is in custody since 15/10/2020, his application deserves to be allowed. So far as co-accused Sarataj @ Hajari is concerned, he has been implicated only on the basis of memo u/S. 27 of the Evidence Act and nothing has been recovered from his possession and there is no criminal track record of applicant Sartaj @ Hajari, his application also deserves to be allowed.

Accordingly, both the applications are allowed. The applicants Chetan s/o Sukhram Jaiswal and applicant Sartaj @ Hajari s/o Ahmed Hussain are directed to be released on bail upon their each furnishing a personal bond in the sum of **Rs.40,000/-** (Rupees Forty Thousand) with one surety in the like amount to the satisfaction of the Trial Court for their appearance before that Court during the pendency of trial. It is made clear that in case the applicant is found involved in any other criminal

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activity, then this bail order shall stand automatically vacated.

Before releasing the applicants from the custody the jail authorities are directed to medically examine them in order to rule out the possibility of COVID -19 infections and shall comply with the direction given by the Hon'ble Apex Court in Writ Petition No. 1/2020.

C.C. as per rules.

(VIVEK RUSIA)  
JUDGE

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