

THE HIGH COURT OF MADHYA PRADESH**M.Cr.C. No. 2225 of 2021****(Dilip Vs. State of MP)****Indore, Dated: 19/1/2021**

Shri Ashish Gupta learned counsel for applicant.

Ms. Dristi Rawal learned Panel Lawyer for the respondent/State.

Heard through video conferencing.

This is the second repeat bail application under Section 439 of the Criminal Procedure Code, 1973. The first application was dismissed as withdrawn vide order dated 29.9.2020 passed in MCRC No.36392/2020. The applicant is in jail since 15.8.2020 in connection with Crime No.321/2020 registered at P.S., Tukoganj, District Indore, for offence punishable under Section 34(2) of M.P.Excise Act.

As per prosecution story, the applicant was found to be in unauthorized possession of 293.760 bulk litres of illicit country made liquor. Accordingly, case has been registered against the present applicant.

Learned counsel for the applicant contends that the applicant is innocent and he has been falsely implicated. Investigation is complete and the challan has been filed. No further custodial investigation is required. The applicant has no criminal antecedents. The applicant has already suffered jail incarceration since 15.8.2020. Due to prevailing Covid-19 situation, trial is not likely to conclude early in the near future. Under such circumstances the prayer for grant of bail may be considered on such terms and conditions as this Court deems fit and proper.

Per contra, learned Panel Lawyer for the respondent opposes the bail application and supports the order impugned. However she fairly submits that applicant has no criminal antecedents.

At this stage, on instructions, learned counsel for the applicant, submits that the applicant has done introspection in the

wake of social and economic crisis due to Covid-19 Pandemic in the country volunteers to deposit a sum of **Rs.35,000/- (Rs.Thirty Five Thousands only)** in the account of **Jila Bal Sanrankshan Samiti, Indore (Axis Bank Account No.911010007267684 IFSC Code UTIB0000503)** for the purpose of providing basic amenities, clothing, food/food items and other essential amenities required for old age people living in old age homes or orphans living in orphanage in and around District Indore in dire need of such amenities/facilities and such old age homes and also to such persons who have lost their means of livelihood during the pandemic Covid-19. However, the aforesaid deposit of amount may not influence the pending trial but is only, for enlargement of applicant on bail.

Upon hearing counsel for the parties but without touching merits of the contentions so advanced, regard being had to the fact that the applicant is in jail since 15.08.2020, having no criminal antecedents, not required for custodial interrogation and due to Covid-19, the possibility of delay in conclusion of trial cannot be ruled out, it is considered apposite to enlarge the applicant on bail.

Consequently, the application of the applicant filed under Section 439 of the Criminal Procedure Code, 1973 is hereby allowed. It is directed that the applicant be released on bail on furnishing personal bond in the sum of **Rs.3,00,000/- (Rupees Three Lakhs only)** with one solvent surety in the like amount to the satisfaction of the learned Trial Court and on the condition that he shall remain present before the Court concerned during trial and also comply with the conditions enumerated under Section 437 (3) of Criminal Procedure Code, 1973 with following further conditions:

- (i) the applicant will prepare a demand draft for **Rs.35,000/- (Rs.Thirty Five Thousands only)** in the account of **Jila Bal Sarankshan Samiti, Indore (Axis Bank Account No.911010007267684 IFSC Code UTIB0000503)** of any nationalized bank for the purpose of providing basic amenities, clothing,

food/food items and other essential amenities required for old age people living in old age homes or orphans living in orphanage in the District Indore in dire need of such amenities/facilities and such old age homes and also to such persons who have lost their means of livelihood during the pandemic Covid-19 and the same shall have no bearing on merits of the trial but for enlargement of the applicant on bail.

(ii)(a) the applicant will submit the aforesaid original demand draft alongwith copy of the order passed today through his counsel before the Principal Registrar of this Bench, for keeping the same in his safe custody.

(ii)(b) The Registry is directed to accept the original demand draft without mentioning the account number therein. However, ensure that the same is relation to the present case.

(ii)(c) as and when directed the Principal Registrar will seek instructions/directions through PUD from this Court for handing over the demand draft to the concerned authority in that behalf.

(iii) the applicant will abide by the terms and conditions of various circulars and orders issued by the Government of India and the State Government as well as the local administration from time-to-time in the matter of maintaining social distancing, physical distancing, hygiene, etc., to avoid proliferation of Novel Corona virus (COVID-19);

(iv) the concerned jail authorities are directed that before releasing the applicant, the medical examination of the applicant be conducted through the jail doctor and if it is *prima facie* found that he is having any symptoms of COVID-19, then the consequential follow up action including the isolation/quarantine or any further test required be undertaken immediately. If not, the applicant shall be released on bail in terms of the conditions imposed in this order;

(v) in future, if the applicant is found to be involved in such nature of cases or any other similar criminal cases or misuse the bail granted by this Court, this bail order shall stand cancelled automatically;

(vi) violation of conditions, State is free to apply for cancellation of bail.

Learned Panel Lawyer is directed to send an e-copy of this order to all concerned including the concerned Station House Officer of the Police Station for information and necessary action.

E-certified copy as per rules.

(Rohit Arya)
Judge

BDJ