

HIGH COURT OF M.P. : BENCH AT INDORE**M.CR.C. No.37222/2021****Pradeep S/o Shyamlalji Bachda vs. State of M.P.****Indore : 05/08/2021 :-**

Shri Abhishek Rathore, learned counsel for the applicant.

Shri S.R. Saxena, learned DAG for the non-applicant/State.

Heard through Video Conferencing. Case-diary perused / challan papers.

ORDER

This is the **first** application under Section 439 of Criminal Procedure Code, 1973, as he is implicated in connection with Crime No.119/2021 registered at Police Station – Nai Abadi, District – Mandsaur (MP) for offence punishable under Sections 34(2) of M.P. Excise Act.

The applicant is in custody since 15.06.2021.

The allegation against the applicant is that 56 bulk liters of unauthorized country made liquor has been seized from the co-accused persons under the memo prepared in Section 27 of Indian Evidence Act and the name of the applicant has been mentioned as the person from whom the liquor has been seized.

Counsel for the applicant has submitted that co-accused/Kuldeep has been granted bail this Court vide order dated 07/06/2021 passed M.Cr.C. No.26225/2021. It is submitted that the charge-sheet has already been filed, the applicant is in jail since 15/06/2021 and final conclusion of the trial is likely to take sufficient long time. Hence, it is submitted that the bail application be allowed and he be released on bail.

Counsel for the respondent / State, on the other hand has opposed the prayer and it is submitted that from the possession of the present applicant certain utensils to manufacture the liquor has been seized. However, it is not denied that there are no other case registered against the present applicant.

Having considered the rival submissions, perusal of the case diary and taking note of the fact that the charge-sheet has already been

filed, finding force with the contentions raised by the counsel for the applicant, ground of parity and the fact that the final conclusion of the trial is likely to take sufficient long time, in the considered opinion of this Court, the applicant's application deserves to be allowed.

Accordingly, 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.50,000/- (rupees fifty thousand)** with one solvent surety of the like amount to the satisfaction of the trial Court for his/her 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 also observed that if the applicant is found in any of the criminal activities, after his / her release on bail, then the present bail order shall stand cancelled without further reference to this Court; and the State / prosecution will be free to arrest the accused in the present case also.

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.

(Subodh Abhyankar)
Judge

Aiyer*