

MISC. CRIMINAL CASE No. 23238 of 2022

**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE**

**HON'BLE SHRI JUSTICE ANIL VERMA**

**ON THE 13<sup>th</sup> OF MAY, 2022**

**MISC. CRIMINAL CASE No. 23238 of 2022**

**Between:-**

**ISHWARLAL S/O SHRI JAGDISH JI GAYARI , AGED ABOUT 25 YEARS,  
OCCUPATION: AGRICULTURIST VILLAGE KACHAYRIYA  
CHANDRAWAT DISTRICT MANDSAUR POLICE STATION PIPLIYA  
MANDI (MADHYA PRADESH)**

**.....PETITIONER**

**(BY SHRI ABHISHEKH RATHORE, ADVOCATE )**

**AND**

**THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER  
THROUGH POLICE STATION NARCOTICS CELL INDORE PRAKOSTH  
MANDSAUR (MADHYA PRADESH)**

**.....RESPONDENTS**

**(BY SHRI HITENDRA TRIPATHI, PL )**

*This application coming on for admission this day, the court passed the following:*

**ORDER**

Applicant has filed this third bail application under Section 439 of the Code of Criminal Procedure, 1973 in connection with Crime No.07/2021 registered at P.S--Narcotic Cell, Indore District- Indore (M.P.) for commission of offence punishable under Sections 8/18, 29 of NDPS Act.

As per prosecution story, on 21/01/2021, on the basis of decret

information received from the informer, the police reached the spot and recovered 1 kg 500 grams opium from the possession of co-accused Chenram, which was illegally being transported without having any valid licence. On the basis of memorandum statement of the co-accused Chenram @ Dasharath recorded under section 27 of the Indian Evidence Act, present applicant has been implicated in this case. Accordingly, the aforementioned offences were registered and he was arrested.

Learned counsel for the applicant contended that applicant is innocent and has been falsely implicated in this offence. There is no legal evidence available on record to connect the applicant with the aforementioned offence. Investigation is almost over. He is in jail since 25/04/2022. He is a permanent resident of District- Mandsaur.. He has been made accused in this case on the basis of memorandum statement of the co-accused recorded under section 27 of the Evidence Act. Nothing has been recovered from his possession. Final conclusion of trial shall take sufficient long time Learned counsel further contended that co-accused Chenram @ Dasharath has been enlarged on bail by this Court vide order dated 15/02/2021 passed in MCRC no. 42495/2021. The case of the present applicant is similar to the co-accused and prays that on the ground of parity, present applicant be also released on bail.

*Per-contra*, learned PL for respondent – State opposes the bail application by submitting that one more offence has already been

registered against the applicant under section 323 of IPC.

Perused the impugned order of the trial Court as well as the case diary.

Considering all the facts and circumstances of the case, arguments advanced by both the parties, nature of allegation as also taking note of the fact that the applicant has been made accused in this case on the basis of memorandum statement of co-accused Chenram @ Dasharath recorded under section 27 of the Evidence Act; the co-accused has already been released on bail; nothing has been recovered from the possession of the applicant; final conclusion of trial shall take sufficient long time; in view of the evidence available on record against the applicant, I deem it proper to release the accused / applicant on bail.

Accordingly, without commenting on the merits of the case, the application is allowed. It is directed that the applicant be released on bail on his furnishing personal bond in the sum of **Rs.1,00,000/- (Rs. One Lac only)** with one solvent surety in the like amount to the satisfaction of the trial Court for his appearance before the trial Court, as and when required. He shall abide by the conditions enumerated u/S. 437(3) Cr.P.C.,

It is made clear that if the applicant is again found to be involved in any other offence during the trial, this order shall stand cancelled automatically without reference to the Court and the police will be at liberty to arrest the applicant 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.

Before releasing the applicant from the custody, the Jail Authorities are directed to medically examine him in order to rule out the possibility of Covid-19 infections and shall comply with the directions issued by the Hon'ble Apex Court in W.P.No. 01/2020.

Certified copy, as per Rules.

(ANIL VERMA)  
J U D G E

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