

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

HON'BLE SHRI JUSTICE ANIL VERMA

ON THE 5th OF AUGUST, 2022

MISC. CRIMINAL CASE No. 35297 of 2022

Between:-

**SHYAM S/O SHRI RAJU, AGED
ABOUT 32 YEARS,
OCCUPATION: LABOUR, R/O C-
17 LALBAGH ARJUNPURA,
INDORE (MADHYA PRADESH)**

.....APPLICANT

***(SHRI MANISH KUMAR SHARMA, LEARNED COUNSEL
FOR THE APPLICANT)***

AND

**THE STATE OF MADHYA
PRADESH STATION HOUSE
OFFICER THROUGH POLICE
STATION CHATRI PURA,
INDORE (MADHYA PRADESH)**

.....RESPONDENT

***(SHRI HITENDRA TRIPATHI, LEARNED PL APPEARING ON
BEHALF OF ADVOCATE GENERAL)***

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

O R D E R

The applicant has filed this first bail application under Section 439 of the Code of Criminal Procedure, 1973. He is in Jail

since 17/05/2022 in connection with Crime No.290/2022 registered at Police Station Chhatripura, District Indore (M.P.) for commission of offence punishable under Section 34(2) and 49(A) of the M.P. Excise Act.

As per the prosecution story, the applicant along with co-accused persons was found to be in joint possession of 90 bulk litres liquor unauthorisedly and illegally during the search by police. Accordingly, a case has been registered.

Learned counsel for the applicant submits that applicant is innocent person and he has been falsely implicated in this matter. He further submits that there is no legal evidence available on record to connect the applicant with the aforementioned offence and no further custodial interrogation of the applicant is required. Offence is triable by Judicial Magistrate First Class. Applicant is in jail since 17/05/2022. He is a permanent resident of District Indore. Co-accused Ram has been enlarged on bail by this Court in similar circumstances *vide* order dated 11/07/2022 passed in M.Cr.C.No. 32568/2022. Final conclusion of trial will take considerable long time. Hence, he prays that applicant be released on bail.

Per-contra, learned counsel for the respondent/State opposes the bail application and prays for its rejection by submitting that there are eighteen criminal antecedents have been against the applicant. However, he fairly submits that all of them are under the IPC and are not related with the M. P. Excise Act. Hence, as the

applicant is a habitual offender, he is not entitled to be released on bail.

Perused the case diary as well as the impugned order of the court below.

Considering all the facts and circumstances of the case, arguments advanced by counsel for the parties, nature and gravity of allegation as also taking note of the fact that the applicant is in jail since 17/05/2022, offence is triable by JMFC, although eighteen criminal antecedents have been found against the present applicant but no one is related with the M.P. Excise Act, co-accused has already been enlarged on bail by this Court in similar circumstances and final conclusion of trial will take considerable long time, therefore, I deem it proper to release the 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 upon his furnishing a personal bond in the sum of **Rs.70,000/- (Rupees Seventy Thousand 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.

Certified copy as per rules.

(ANIL VERMA)
J U D G E