

**IN THE HIGH COURT OF MADHYA PRADESH**

**AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE ANIL VERMA**

**ON THE 22<sup>nd</sup> OF SEPTEMBER, 2022**

**MISC. CRIMINAL CASE No. 42438 of 2022**

**BETWEEN:-**

**ARVIND S/O BHERULAL PATIDAR,  
AGED ABOUT 40 YEARS,  
OCCUPATION: LABOUR, R/O  
VILLAGE BANI, TEHSIL MANASA  
DISTRICT NEEMUCH (MADHYA  
PRADESH)**

**.....APPLICANT**

***(SHRI HIMANSHU THAKUR, LEARNED COUNSEL FOR THE  
APPLICANT)***

**AND**

**THE STATE OF MADHYA PRADESH  
STATION HOUSE OFFICER  
THROUGH POLICE STATION  
NAHARGARH, DISTRICT  
MANDSAUR (MADHYA PRADESH)**

**.....RESPONDENT**

***(SHRI GOVIND PUROHIT, LEARNED GA 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. Applicant is in Jail since 22/08/2022 in connection with Crime No.520/2021 registered at Police Station – Nahargarh, District Mandsaur (M.P.) for commission of offence punishable under Section 8/18, 25 and 29 of Narcotics Drugs and Psychotropic Substances Act, 1985.

As per the prosecution story, on 02/11/2021 police got a discrete information from the informant regarding illegal transportation of contraband. Act upon the said information, police party reached on the spot and intercepted a motorcycle without bearing any registration number and recovered 8.800 Kilogram Opium from the possession of co-accused Sunderlal and Shantilal. On the basis of the memorandum statement of co-accused recorded under Section 27 of the Evidence Act that he has taken the contraband from the present applicant Arvind, present applicant has also been implicated in the offence. Accordingly, a case has been registered against the applicant also.

Learned counsel for the applicant submits that applicant is innocent and he has been falsely implicated in this matter. Applicant is in custody since 22/08/2022. He has been implicated in the offence only on the basis of memorandum statement given by the co-accused but nothing has been recovered from his possession. He is having no criminal antecedent. Applicant is the permanent resident of Neemuch district and 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 after the incident applicant was absconding and the seized quantity of the contraband is more than the commercial quantity. Therefore, applicant is not entitled to be enlarged 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, nature and gravity of allegation as also taking note of the fact that in the present matter seized quantity of contraband is more than the commercial quantity and applicant was absconding for more than ten months after the incident.

Therefore, in view of the *prima-facie* evidence available on record against the applicant, without commenting upon the merits of the case, at this stage, this Court is not inclined to grant bail to the present applicant. Accordingly, the first bail application preferred under Section 439 of Cr.P.C. is hereby rejected.

Certified copy as per rules.

**(ANIL VERMA)**  
**J U D G E**