

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

ON THE 2nd OF DECEMBER, 2022

MISC. CRIMINAL CASE No. 45440 of 2022

BETWEEN:-

PARVEZ S/O SHRI PAPPU KHA, AGED ABOUT 25 YEARS, OCCUPATION: LABOUR AND DRIVARY GRAM BURLAAY, DISTRICT SHAJAPUR. PRESENT ADDRESS- LOHE KI TANKI KE PASS, CHAWNI AGAR, POLICE THANA AGAR, DISTRICT AGAR (MADHYA PRADESH)

.....APPLICANT

**(SHRI YOGESH PUROHIT, LEARNED COUNSEL FOR THE APPLICANT) .
)**

AND

THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THROUGH POLICE STATION AGAR DISTRICT AGAR MALWA (MADHYA PRADESH)

.....RESPONDENT

(SHRI HITENDRA TRIPATHI, GOVT. ADV. FOR RESPONDENT/STATE)

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

ORDER

They are heard. Perused the case diary /challan papers.

2. This is the applicant's third application under Section 439 of Criminal Procedure Code, 1973, as the applicant is implicated in connection with Crime No.248/2022, registered at Police Station Agar, District Agar Malwa, for offence punishable under Sections 4, 6, 9 of M.P. Govansh Pratished Adhiniyam and under Section 11(D) of the Prevention of Cruelty to Animals Act, 1960 and under Section 34(2) of M.P. Excise Act. He is in custody since

13.6.2022.

3. The first application bearing M.Cr.C.No.31153/2022 was dismissed as withdrawn by order dated 19.7.2022. The second application bearing M.Cr.C.No.39723/2022 was dismissed as withdrawn by order dated 30.8.2022 with liberty to renew the prayer at an appropriate stage.

4. As per the prosecution, on 19.4.2022, on receipt of a secret information the police party tried to stop a pickup vehicle bearing registration No.M.P. 09 GH 7538 but the driver attempted to flee away. The vehicle was eventually stopped but the driver managed to escape. In the vehicle 8 cattle were found to have been kept in an inhumane condition from which it was apparent that they were being taken for the purpose of slaughter. 60 bulk litres of country made liquor was also recovered from the vehicle. On the recovery investigation was commenced during the course of which the applicant has been implicated and arrested for the present offence on the allegation that he is the owner of the vehicle.

5. Learned counsel for the applicant submits that applicant is innocent and has falsely been implicated in the case. Subsequent to withdrawal of the previous application three witnesses of search and seizure namely Nepal Singh, Raju and Prashant have been examined before the trial court and none of them have supported the prosecution case in any manner and have been declared hostile. The cattle which were recovered from the vehicle were not found to have suffered any injury on account of their transportation. The applicant is in custody since 13.6.2022 and the trial is still likely to take time for its conclusion. On such grounds, prayer for grant of bail to the applicant has been made.

6. The aforesaid prayer has been opposed by the learned counsel for the State submitting that in view of the allegations levelled against the applicant

he is not entitled to be released on bail merely on the basis of statements of witnesses recorded before the trial Court.

7. I have heard the learned counsel for the parties and have perused the record including the statements of the witnesses.

8. Subsequent to withdrawal of the previous application three witnesses namely Nepal Singh, Raju and Prashant have been examined before the trial court and none of them have supported the prosecution case and have been declared hostile. The applicant has since the previous application undergone further custody period of 4 months. He has been in custody since 13.6.2022 and the trial is likely to take long time for its conclusion. The cattle recovered from the vehicle in question were not found to have suffered any injury. Thus in my opinion, under the changed circumstances, the applicant deserves to be released on bail.

9. 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/-** with one solvent surety of the like amount to the satisfaction of the trial Court for his regular appearance before the trial Court during trial with a condition that he 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.

10. 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.

(PRANAY VERMA)
JUDGE

SS/-