

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

**HON'BLE SHRI JUSTICE ANIL VERMA**

**ON THE 25<sup>th</sup> OF NOVEMBER, 2022**

**MISC. CRIMINAL CASE No. 48516 of 2022**

**BETWEEN:-**

**RAJESH @ RAJU KHATIK S/O RAMNATH JI  
KHATIK, AGED ABOUT 48 YEARS,  
OCCUPATION: MAJDURI MISROLI TEHSIL  
PANCHPAHAD DISTRICT JHALAWAR  
(RAJASTHAN)**

**.....PETITIONER**

**(SHRI DEEPAK BOURASI, LEARNED  
COUNSEL FOR THE PETITIONER )**

**AND**

**THE STATE OF MADHYA PRADESH STATION  
HOUSE OFFICER THROUGH POLICE  
STATION MANASA DISTRICT NEEMUCH  
(MADHYA PRADESH)**

**.....RESPONDENT**

**( SHRI N.S. BHATI 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**

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

23.7.2022 in connection with Crime No. 89/2004 registered at P.S. - Manasa District Neemuch (M.P.) for commission of offence punishable under Section 8, 18, 21 of NDPS Act.

As per the prosecution story, on 26.3.2004 police got discrete information from the informant regarding illegal transportation of contraband, acting upon said information, police party reached on the spot and caught three persons Prahlad, Shyam and Prabhudayal from the spot and during interrogation they have admitted that they were preparing smack, 52 kg opium solution filtered 3.150kg smack, some apparatus for preparing smack have been recovered from their possession. The present applicant fled away from the spot. Accordingly a case has been registered against the applicant.

Learned counsel for the applicant submits that applicant is innocent and he has been falsely implicated in this matter. Applicant is in jail since 23.7.2022. As per prosecution contraband has been recovered from possession of co-accused Prahlad, Shyam and Prabhudayal but all of them have been acquitted by coordinate bench of this Court by judgment dated 9.9.2010 passed in Cri.A. No. 1050/2007, investigation is over and charge sheet has been filed. Applicant is permanent resident of District Jhalawar. Applicant has no criminal past. Hence, he prays that applicant be released on bail.

*Per-contra*, learned PL for respondent/State opposes the bail application and prays for its rejection by submitting that applicant

remained abscond for a period of about 18 years and if he is granted bail he will again abscond. Hence the applicant does not deserve for 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 it is revealed that although three accused persons have been acquitted by the coordinate bench of this court but evidence was not recorded against the present applicant therefore, evidence against the co-accused cannot be read conjointly in respect of present applicant. Applicant remained abscond for a long period of about 18 years without any satisfactory explanation. Therefore, there is a strong possibility that he may again abscond, if he is granted bail. In view of the evidence available on record, this court is not inclined to enlarge the applicant on bail

Hence this M.Cr.C. filed under Section 439 of Cr.P.C. filed by applicant is hereby dismissed.

Certified copy as per rules.

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