

**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. 52423 of 2022**

**BETWEEN:-**

**JAVED S/O RASHEED KHAN,  
AGED ABOUT 30 YEARS,  
OCCUPATION: DRIVER R/O 58/C  
MANGAL MARG GANDHI  
NAGAR INDORE (MADHYA  
PRADESH)**

**.....APPLICANT**

***(SHRI AMAR SINGH RATHORE, LEARNED COUNSEL FOR THE  
APPLICANT)***

**AND**

**THE STATE OF MADHYA  
PRADESH STATION HOUSE  
OFFICER THROUGH POLICE  
STATION NARCOTIC CELL  
INDORE (MADHYA PRADESH)**

**.....RESPONDENT**

***(SHRI N.S. BHATI, 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**

This is the first bail application under Section 439 of the Code of Criminal Procedure, 1973 filed on behalf of the applicant for grant of bail. The applicant is in custody since 02/07/2022 in connection with Crime No.23/2022 registered at Police Station – Narcotics Cell, District Indore (M.P.) for commission of offence punishable under Section 8/22 and 29 of Narcotics Drugs and Psychotropic Substances Act, 1985.

As per the prosecution story, on 25/05/2022 police got a discrete information from the informant regarding the illegal transportation of the contraband. Act upon the said information, police party reached on the spot and intercepted two accused persons and recovered 10 Gram Methedrone (MD) from their joint possession. On the basis the memorandum given by the co-accused under Section 27 of the Evidence Act, present applicant is implicated in this 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 02/07/2022. He is implicated in this offence only on the basis of the memorandum given by the co-accused but nothing has been recovered from his possession. Investigation is over and charge sheet has been filed. The seized quantity of contraband from the co-accused is below than the

commercial quantity. Applicant is the permanent resident of Indore 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 there are two criminal antecedents found against the present applicant. He is a habitual offender, hence, is not entitled to be enlarged on bail.

In reply, learned counsel for the applicant submits that applicant has been acquitted by the Sessions Judge for the offence registered under Section 307 of IPC and only one criminal case registered under the NDPS Act is pending against him.

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 applicant is in custody since 02/07/2022; seized quantity of contraband from the co-accused is below than the commercial quantity; applicant is implicated only on the basis of the memorandum given by the co-accused but nothing has been recovered from his possession; investigation is over, therefore, no further custodial interrogation of the applicant is required and final conclusion of trial will take considerable long time. In these

circumstances, I deem it proper to release the applicant on bail.

Accordingly, without commenting upon 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. 1,50,000/- (Rupees One Lac Fifty 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**

*Tej*