

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE ANIL VERMA

ON THE 25th OF NOVEMBER, 2022

MISC. CRIMINAL CASE No. 52568 of 2022

BETWEEN:-

**MALKHAN CHOUHAN S/O
BABULAL CHOUHAN, AGED
ABOUT 20 YEARS, OCCUPATION:
LABOUR, R/O GRAM
KAYASHKHDI, TEHSIL SANWER,
DIST. INDORE (MADHYA
PRADESH)**

.....APPLICANT

(SHRI ASHISH TIWARI, LEARNED COUNSEL FOR THE APPLICANT)

AND

**THE STATE OF MADHYA
PRADESH STATION HOUSE
OFFICER THROUGH POLICE
STATION SANWER DISTRICT
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 25/09/2022 in connection with Crime No.501/2022 registered at Police Station – Sanwer, District Indore (M.P.) for commission of offence punishable under Section 327, 341, 323, 294 and 506 of the Indian Penal Code, 1860.

As per prosecution story, on 25/09/2022 complainant launched an FIR at Police Station Sanwer, Indore by stating that on 24/09/2022 at about 07:00 PM when he was parking his Eicher vehicle at Khandelwal Petrol Pump, at that time present applicant came there and demanded Rs.1,000/- for liquor. When he denied, present applicant abused him in a filthy language and pelted a stone, due to which he sustained injury over his head. Applicant was threatening him that if he will not give him the money, he will kill him. Accordingly, offence has been registered against the applicant.

Learned counsel for the applicant submits that the applicant is an innocent person and he has been falsely implicated in this offence. He is in custody since 25/09/2022. Offence is triable by Judicial Magistrate First Class. Investigation is over and charge sheet has been filed. Applicant is a young person of 20 years of age. Most of the cases registered against him have been disposed of. Applicant is permanent resident of Indore district and final

conclusion of the trial is likely to take sufficient long time. Under the above circumstances, prayer for grant of bail may be considered on such terms and conditions, as this Court deems fit and proper.

Per contra, learned counsel for the respondent / State opposes the bail application and prays for its rejection by submitting that there are as many as 13 criminal antecedents have been found against the applicant. He is a habitual offender. Hence, he is not entitled to be released on bail.

Counsel for the applicant opposes the contention of learned counsel for the State by submitting that actually only five criminal antecedents are there against the applicant.

Perused the impugned order of the trial Court as well as the case diary.

After considering all the facts and circumstances of the case, nature and gravity of offence, arguments advanced by the learned counsel for the applicant and also taking note of the fact that the applicant is in custody since 25/09/2022; investigation is over, therefore, no further custodial interrogation of the applicant is required; offence is exclusively triable by Judicial Magistrate First Class and final conclusion of the trial will take sufficient long time. In these circumstances, I deem it proper to release the applicant on bail. Therefore, without commenting on the merits of the case, the application is allowed.

It is directed that applicant be released on bail on his furnishing personal bond in the sum of **Rs.75,000/- (Rupees Seventy Five 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 all the conditions enumerated under Section 437(3) Cr.P.C.

Certified copy as per rules.

(ANIL VERMA)
J U D G E

Tej