

**IN THE HIGH COURT OF MADHYA PRADESH**

**AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE PRANAY VERMA**

**ON THE 24<sup>th</sup> OF NOVEMBER, 2022**

**MISC. CRIMINAL CASE No. 55236 of 2022**

**BETWEEN:-**

**GANESH S/O SHRI DALCHU JI MEENA,  
AGED ABOUT 35 YEARS, OCCUPATION:  
LABORER MARJIWI ROAD,  
NIMBAHEDA (RAJASTHAN)**

**.....PETITIONER**

***(ABHISHEK RATHORE, LEARNED COUNSEL FOR THE APPLICANT).***

**AND**

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

**.....RESPONDENT**

***(SHRI HITENDRA TRIPATHI, GOVT. ADVOCATE FOR STATE)***

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

**ORDER**

Heard.

2. This is the first bail application under Section 439 of Criminal Procedure Code, 1973. Applicant is implicated in connection with Crime No.355/2022, registered at Police Station Jawad, District Neemuch for offence punishable under Sections 34(2) of M.P. Excise Act. The applicant is in custody since 29.08.2022.
3. As per prosecution story, 60 bulk literes 480 ml of illicit country made liquor has been recovered from the possession of the applicant without having any valid license. Hence, the offence has been registered against him.
4. Learned counsel for the applicant has submitted that applicant is

innocent and has been falsely implicated in the case. The recovery of the articles which are alleged to have been used for manufacturing of liquor have been recovered from the possession of co-accused Manish hence the allegation under Sections 420 and 482 is relatable to co-accused Manish only. It is further submitted that no document is produced by the prosecution to establish that this was a poisonous liquor except assumption of seizing officer. Though the seized liquor is sent to FSL for chemical analysis but report is awaited. There is no evidence against him. The conclusion of trial is likely to take time. The applicant is permanent resident of Indore and there is no possibility of his absconding. Applicant is ready to furnish adequate security. He is in custody since 29.08.2022. Investigation has been completed and charge sheet has been filed. On such grounds prayer for grant of bail to the applicant has been made.

5. The aforesaid prayer is opposed by counsel for the respondent/State stating that the FSL report has been sought for though the same is yet to be received. He further submits that two criminal antecedents are registered against the applicant.

6. Considering that the police has completed the investigation and nothing is there except assumption of the Seizing Officer that the seized liquid was poisonous or unfit for human consumption and other facts and circumstances of the case, I deem it proper to release the applicant on bail. Therefore, without commenting on merits of the case, the application is allowed.

7. It is directed that the applicant be released from custody on his furnishing a personal bond in the sum of **Rs.50,000/-** with two solvent sureties of **Rs.25,000/-** each out of which one shall be local surety of the like amount to the satisfaction of the Trial Court for his appearance before the Trial Court as and when required further subject to the following conditions:-

- (i) The applicant shall co-operate with the trial and shall not seek unnecessary adjournments on frivolous grounds to protract the trial;
- (ii) The applicant shall not directly or indirectly allure or make any inducement, threat or promise to the prosecution witnesses, so as to dissuade him/her from disclosing truth before the Court;
- (iii) The applicant shall not commit any offence or involve in any criminal activity;
- (iv) In case of his involvement in any other criminal activity or breach of any other aforesaid conditions, the bail granted in this case may also be cancelled.

8. However, this bail shall be subject to FSL report. In case, the FSL report confirms that the seized liquid is poisonous or is not fit for human consumption, this order shall automatically come to an end and the applicant shall immediately surrender before the Court.

9. With the aforesaid directions, M.Cr.C. stands allowed and disposed off.

**(PRANAY VERMA)**  
**JUDGE**

SS/-