

1  
**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE  
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**ON THE 30<sup>th</sup> OF JANUARY, 2023**

**MISC. CRIMINAL CASE No. 58288 of 2022**

**BETWEEN:-**

**SHAHAWAZ S/O MOHMD. ISMAIL KHAN, AGED ABOUT  
34 YEARS, OCCUPATION: PVT. SERVICE 4/1 NAYAPURA  
MOHLLA DISTRICT INDORE (MADHYA PRADESH)**

**.....APPLICANT**

***(BY SHRI SANTOSH KUMAR MEENA, LEARNED COUNSEL)***

**AND**

**THE STATE OF MADHYA PRADESH STATION HOUSE  
OFFICER THROUGH POLICE STATION PIPLIYAMANDI  
DISTRICT MANDSAUR. (MADHYA PRADESH)**

**.....RESPONDENT**

***(BY SHRI HITENDRA TRIPATHI, LEARNED COUNSEL APPEARING ON  
BEHALF OF THE ADVOCATE GENERAL)***

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

**ORDER**

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

This **FIRST** application under Section 438 of Criminal Procedure Code, 1973 (herein after referred to as the Code) has been filed on behalf of the applicant for grant of anticipatory bail, as the present applicant is apprehending his / her arrest in connection with Crime No.266/2021 registered at Police Station Pipliyamandi, District Mandsaur (MP) for offence punishable under Sections 304, 308, 328, 109, 201 and 34 of Indian Penal code, 1860 and also under Section 49-A read with Section 42 of the Madhya Pradesh Excise Act,

1915.

The allegation against the applicant is that he was also involved in the aforesaid offence wherein two persons have died by consuming spurious liquor; and it is also alleged that the applicant was also involved in other similar cases in which as many as eleven persons have died.

Learned counsel for the applicant has submitted that the applicant was already lodged in jail from 10.07.2021 to 26.08.2021, whereas his name has appeared in the present case for the first time on 09.08.2021 that too on the basis of a memo prepared under Section 27 of the Evidence Act by co-accused Shyam Singh.

It is also submitted that even otherwise, the aforesaid memo was the third memo given by co-accused Shyam Singh in which he has mentioned the name of the applicant for the first time, as the person who has supplied caps and labels of spurious liquor to him. Thus, it is submitted that as the applicant was already lodged in jail when his name has surfaced for the first time on 09.08.2021 and thus, it is not a case wherein his arrest would be necessary, as the Police had ample time to inquire from him while he was already in jail.

Counsel has also submitted that even otherwise, the applicant is ready to cooperate with the investigation and no purpose would be served in sending the applicant behind the bar; and thus, the custodial interrogation of the applicant is not necessary. Thus, it is submitted that the applicant be released on anticipatory bail.

Counsel for the respondent / State, on the other hand, has opposed the prayer and it is submitted that no case for grant of anticipatory bail is made out, looking to the grievousness of the offence, because as many as eleven persons have died and many more have been injured by consuming spurious liquor and

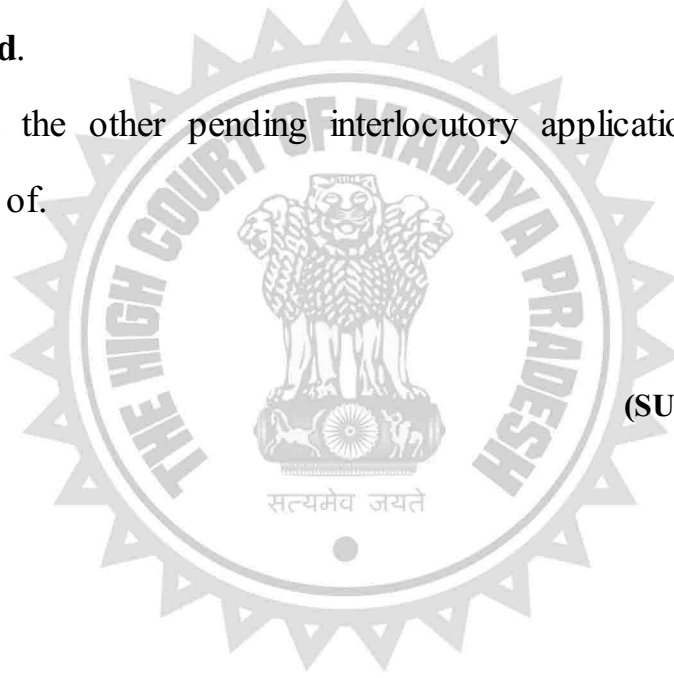
the role played by the applicant was also of an important one and thus, in the present case, his custodial interrogation is necessary.

On due consideration of the rival submissions and perusal of the case diary, this Court finds force in the submissions, as advanced by the learned counsel for the respondent / prosecution, looking to the grievousness of the offence, no case for grant of anticipatory bail is made out, and also considering the fact that in the case in which he was earlier arrested was also under the provisions of the Excise Act.

Accordingly, Miscellaneous Criminal Case No.58288/2022 stands **dismissed.**

All the other pending interlocutory applications, if any, shall stand disposed of.

rcp



**(SUBODH ABHYANKAR)**  
**JUDGE**