

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

HON'BLE SHRI JUSTICE ANIL VERMA

ON THE 17th OF MARCH, 2023

MISC. CRIMINAL CASE No. 11737 of 2023

BETWEEN:-

**RAJARAM @ RAJU S/O GANESHRAM PATIDAR,
AGED ABOUT 50 YEARS, OCCUPATION:
AGRICULTURIST VILLAGE JAWASIYA PS
BHAUGARH, TEHSIL AND DISTRICT MANDSAUR
(MADHYA PRADESH)**

.....APPLICANT

(BY SHRI ABHISHEK RATHORE- ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH STATION
HOUSE OFFICER THROUGH POLICE STATION
MALHARGARH, MANDSAUR (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI ABHISHEK BHARGAVA PL)

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

ORDER

Applicant has filed this first bail application under Section 439 of the Code of Criminal Procedure, 1973 in connection with Crime No. 51/2023 registered at P.S – Malhargarh, District- Mandsaur (M.P.) for commission of offence punishable under Sections 8 /18, 29 of NDPS Act.

As per prosecution story, on 03.03.2023 sub inspector Purnima Sirohiya got a secret information that a person, is coming towards Malyakhedi Fanta and having contraband opium in his possession and

on the basis of said information, police reached at the place of incidence and recovered 1 kg 85 grams of opium from the possession of co-accused Dipesh Patidar from his bike bearing registration number MP-44-MV-1808. That, the allegation against the present applicant is that co-accused procured illegal contraband from the present applicant/accused. Accordingly, the aforementioned offence was registered against the applicant.

Learned counsel for the applicant contended that applicant is innocent and has been falsely implicated in this offence. There is no legal evidence available on record to connect the applicant with the aforementioned offence. The contraband seized from the possession of the co-accused is below than the commercial quantity. The applicant has been made accused only on the basis of memorandum under section 27 of the Evidence Act.. Nothing has been recovered from his possession. Applicant is in custody since 07/03/2023. He is permanent resident of District- Mandsaur. There is no apprehension of his fleeing away from the court of justice. Final conclusion of trial shall 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 PL for respondent – State opposes the bail application and prays for its rejection but fairly admits that no criminal antecedent has been found against the applicant.

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

Considering all the facts and circumstances of the case, arguments advanced by both the parties, nature of allegation as also taking note of the fact that the contraband seized from the possession of the co-

accused is below than the commercial quantity; the applicant has been made accused in the instant case only on the basis of memorandum under section 27 of the Evidence Act; nothing has been recovered from his possession; the applicant is in custody since 07/03/2023 and possibility of delay in conclusion of the trial cannot be ruled out, in view of the evidence available on record, I deem it proper to release the accused / applicant on bail.

Accordingly, without commenting on the merits of the case, the application is allowed. It is directed that the applicant be released on bail on his furnishing personal bond in the sum of **Rs. 1,50,000/- (Rs. 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 all the conditions enumerated u/S. 437(3) Cr.P.C.,

It is made clear that if the applicant is again found to be involved in any other offence during the trial, this order shall stand cancelled automatically without reference to the Court and the police will be at liberty to arrest the applicant in the present case also. This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Certified copy, as per Rules.

(ANIL VERMA)
J U D G E

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