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

**BEFORE
HON'BLE SHRI JUSTICE ANIL VERMA**

ON THE 25th OF MAY, 2023

MISC. CRIMINAL CASE No. 21744 of 2023

BETWEEN:-

**YUNUS S/O VAHID SUNNI MUSALMAN, AGED ABOUT 44
YEARS, OCCUPATION: LABORER MULTANPURA,
TEHSIL AND DISTRICT MANDSAUR (MADHYA
PRADESH)**

.....APPLICANT

(BY SHRI ABHISHEK RATHORE - ADVOCATE FOR THE APPLICANT)

AND

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

.....RESPONDENTS

**(BY SMT. VARSHA SINGH THAKUR - GOVERNMENT ADVOCATE FOR
THE RESPONDENTS STATE)**

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

ORDER

1. This is the First application under Section 439 of Criminal Procedure Code, 1973, as the applicant is implicated in connection with Crime No.357/2022 registered at Police Station Nahargarh, District Mandsaur (MP) for offence punishable under Sections 4, 6, 9 of M.P. Govansh Vadh Adhiniyam, Sections 4, 6, 10, 6 (Kha) (1) of M.P. Agricultural Cattle Preservation Act and Section 11 of Prevention of Cruelty to Animals Act as well as Under Section 34(2) of the M.P. Excise Act.

2. The applicant is in custody since 27-08.2022.

3. As per the prosecution, on receipt of secret information on 27-08-2022 the police party reached Sagasbabji Main road and stopped a vehicle bearing Registration No. MP -14-GC-1430 and found five alive cattle and three dead cattle in the same alongwith sixty liters country made liquor from the possession of co-accused Mohd. Shakir. On recording of his memorandum under Section 27 of the Evidence Act to the effect that the applicant was also traveling along with him and had run away, the applicant has been implicated and arrested for the present offence.

4. Learned counsel for the applicant submits that the applicant is innocent and has falsely been implicated in the case. Besides the information received in which he had been named and the memorandum of co-accused recorded under Section 27 of the Evidence Act there is no evidence to implicate the applicant directly or indirectly in the case. He has not been identified by anyone to be the person who was driving the vehicle. Two co-accused namely, Yusuf and Mohd. Shakir had been enlarged on bail by this Court vide MCRC No. 60506 of 2022 dated 03.02.2023 and vide MCRC No. 53081 of 2022 dated 14.11.2022, respectively. On such grounds prayer for grant of bail to the applicant has been made.

5. The aforesaid prayer has been opposed by the learned counsel for the respondent/State submitting that the applicant was named in the source information and is having criminal antecedents with six more cases registered against him out of which five are found to be of similar nature and being an habitual offender he is not entitled to be released on bail.

6. I have heard learned counsel for the parties and have perused the case diary.

7. After considering all the facts and circumstances of the case and also taking note of the fact that only material available in the diary is the name of the applicant in the source information and the memorandum of co-accused recorded under Section 27 of the Evidence Act. The applicant has not been identified to be the person who was driving the vehicle in which the recovery of cattle and liquor has been made. Offence is exclusively triable by JMFC and final conclusion of trial will take a long considerable time. Thus, in my opinion, in view of the material available on record, the applicant deserves to be enlarged on bail.

8. Accordingly, without commenting on the merits of the case, the application filed by the applicant is allowed. The applicant is directed to be released on bail upon furnishing a personal bond in the sum of Rs.75,000/- (Rupees Seventy Five Thousand Only) with one solvent surety of the like amount to the satisfaction of the trial Court for his regular appearance before the trial Court during trial with a condition that he shall remain present before the court concerned during trial and shall also abide by the conditions enumerated under Section 437 (3) Criminal Procedure Code, 1973.

9. 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)
V. JUDGE