

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

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 29th OF SEPTEMBER, 2023

MISC. CRIMINAL CASE No. 25980 of 2023

BETWEEN:-

**RAKESH KUMAR RATHORE S/O GOPALDASJI
RATHORE, AGED ABOUT 39 YEARS,
OCCUPATION: BUSINESS GRAM NALKHEDA,
DIST. AGAR MALWA (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI NEERAJ GAUTAM, ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH STATION
HOUSE OFFICER THROUGH POLICE STATION
BILPANK, DIST. RATLAM (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI A. S. PARIHAR, G.A.)

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

ORDER

1] This petition has been filed by the petitioner under Section 482 of Cr.P.C. against the order dated 27/01/2023, passed in case MJCR No.49/2023 by the Special Additional District Judge, (NDPS Act) Ratlam (M.P.) whereby the petitioner's application preferred under Section 451/457 of Cr.P.C. for supurdgi of Rs.4,50,000/- has been

dismissed which were seized during the investigation by the prosecution along with a vehicle Hyndai Creta car bearing registration No.MP 04 CQ 8343, in a case registered under Section 3, 20, 18, 25 and 27 of the N.D.P. S. Act, involving 590 gm of cannabis (Ganja) and 75 gm of opium.

2] According to the petitioner, he was sitting in the aforesaid vehicle as a co-passenger along with the aforesaid amount of Rs.4,50,000/- and had nothing to do with the offence and he is also not an accused in the case and he was not arrested, and the aforesaid vehicle which belongs to the accused Arshad Hussain has already been released to him by this Court in M.Cr.C. No.24111/2022 vide order dated 12/01/2023. Hence, it is submitted that the petition be allowed, and the aforesaid amount be given to the petitioner.

3] Counsel for the respondent/State, on the other hand, has opposed the prayer and it is submitted that no interference is made out, however, it is not denied that as per the prosecution, the status of the petitioner was that of co-passenger sitting in the car and he is also not being prosecuted.

4] Heard. On due consideration of submissions and on perusal of the documents filed on record, it is found that the aforesaid vehicle belongs to the accused Arshad Hussain has already been released to him by this Court in M.Cr.C. No.24111/2022, vide order dated 12/01/2023. So far as the petitioner is concerned, he is not even an accused in the case. In such circumstances, when it is nobodies case that the aforesaid money was drug money, involving narcotic drug,

this Court finds no reasons to dislodge the claim of the petitioner.

5] Resultantly, the impugned order dated 27/01/2023 passed in case MJCR No.49/2023 by the Special Additional District Judge, (NDPS Act) Ratlam is hereby set aside, the petition stands ***allowed***, and it is directed that on petitioner's furnishing adequate surety to the satisfaction of the Trial Court, the amount of Rs.4,50,000/- be released to the petitioner, within two weeks' time from receipt of certified copy of this order.

Accordingly, Petition stands ***disposed of***.

(SUBODH ABHYANKAR)
JUDGE

krjoshi