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**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. 4671 of 2023**

**BETWEEN:-**

**RAKESH S/O CHUNNILAL KUSHWAH, AGED ABOUT 20  
YEARS, GRAM BADI THANA AVM TESHIL  
NARSINGGARH DISTRICT RAJGARH (MADHYA  
PRADESH)**

**.....APPLICANT**

***(BY SHRI AKHILESH KUMAR SAXENA, LEARNED COUNSEL)***

**AND**

**THE STATE OF MADHYA PRADESH STATION HOUSE  
OFFICER THROUGH POLICE STATION  
NARSINGGARH, DISTRICT RAJGARH (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 is **FIRST** application under Section 438 of Criminal Procedure Code, 1973 (herein after referred to as the Code) 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.18/2022 registered at Police Station Narsinggarh, District Rajgarh (MP) for offence punishable under Section 34 (2) of the Madhya Pradesh Excise Act, 1915.

The allegation against the applicant is that he was found in possession of 60 bulk liters of unauthorized liquor.

Learned counsel for the applicant has submitted that he was initially arrested along with 60 bulk liters of unauthorized liquor, however, he was released after giving a notice under Section 41-A of the Code.

Counsel has also submitted that the date of incident is 09.01.2022 and the applicant has not misused the liberty extended to him, however, at the time of filing of the charge sheet (as the same was not filed within the limitation of six months), the applicant is apprehending that he might be arrested and would be sent behind the bar; and thus, it is submitted that the application be allowed.

Counsel for the respondent / State, on the other hand, has opposed the prayer. However, it is not denied that the applicant was given a notice under Section 41-A of the Code and there are no criminal antecedents against him.

Having considered the rival submissions and on perusal of the case diary and taking note of the fact that the applicant was not earlier arrested during the course of investigation and was issued a notice under Section 41-A of the Code, this Court finds that no purpose would be served to send the applicant behind the bar at this stage, as the charge sheet has already been filed.

Accordingly, the application stands **allowed**. It is directed that in the event of arrest, applicant **Rakesh S/o Chunnilal Kushwaha** shall be released on bail, upon executing a personal bond in the sum of **Rs.25,000/- (rupees twenty five thousand only)** and furnishing solvent surety in the like amount to the satisfaction of the Arresting Officer (Investigating Officer).

The applicant shall make himself / herself available for interrogation by a Police Officer, as and when required. He / she shall further abide by the other conditions enumerated in Sub Section (2) of Section 438 of the Code of

Criminal Procedure, 1973.

Accordingly, Miscellaneous Criminal Case No.4671/2023 stands **allowed.**

Certified copy as per rules.

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

rcp

