

The High Court Of Madhya Pradesh

MCRC-45455-2018

(SONU @ AFZAL KHAN Vs THE STATE OF MADHYA PRADESH)

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Jabalpur, dated: 16.11.2018

Shri Pushendra Dubey, learned counsel for the applicant.

Shri Manish Awasthy, learned Government Advocate for the respondent/State.

Case diary is available.

Heard on this first application for anticipatory bail under section **438** of the Code of Criminal Procedure filed on behalf of applicant, who is apprehending his arrest in connection with Crime No.676/2018 registered by Police Station City Kotwali, District Rewa under Sections 5 and 13 of Drugs (Control) Act, 1950 and Section 34 (1) of the M.P. Excise Act.

The case of the prosecution is that, on an information of the informant, the Police party have seized three cartoons containing 120 bottles on each cartoon of Corex and three gunny bags contained 1080 bottles of country made liquor on 15.10.2018 from Old Post Office, Ghoghar under the jurisdiction of Police Station City Kotwali, Rewa. The applicant fled away from the spot. On that basis offence has been registered against the applicant.

Learned counsel for the applicant submitted that the applicant has not committed any offence and has falsely been implicated in the crime. It is further submitted that the alleged seized articles had not containing any alcoholic substance and so far as the drugs are concerned, the offence is bailable and only Town Inspector is empowered to investigate the crime. As such the offence under the Drugs (Control) Act, 1950 is not made out against the applicant. It is also submitted that the applicant is permanent resident of the address described in the application. He is ready and willing to furnish sufficient surety as imposed upon him. In view of the aforesaid, a prayer has been made to enlarge the applicant on anticipatory bail.

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Learned Government Advocate for the respondent/State on the other hand opposed the bail application.

On perusal of the case diary, it seems that the drug-Corex and country made liquor, which have been seized from the applicant is in huge quantity of which there was no authority or licence found in possession of the applicant. The contention so raised by the applicant that the provisions of Drugs (Control) Act, 1950 do not attract, is not tenable.

However, keeping in view the facts and circumstances of the case in their entirety and looking to the gravity of offence, at this stage, in the opinion of this Court, it is not a fit case for grant anticipatory bail to the applicant.

Consequently, the first application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on behalf of the applicant-Sonu @ Afzal Khan, deserves to be and is accordingly **dismissed**.

(Mohd. Fahim Anwar)
Judge

taj.