

M.Cr.C. No.43794/2018
(Goverdhan Singh Vs. State of M.P.)

Indore, Dated: 31/10/2018

Shri R.R. Bhatnagar, learned counsel for the applicant.

Ms. Nidhi Bohra, learned Public Prosecutor for the respondent/State.

This is first application under Section 439 Cr.P.C., for grant of bail in connection with Crime No.290/2018, registered at Police Station- Bhanpura, District- Mandsaur, for commission of the offence punishable under Section 34(2) of the M.P. Excise Act, 1915.

As per prosecution case, on 20/07/2018, on the basis of secret information police recovered 54.9 bulk liters of country made liquor, from the possession of co-accused-Omkarlal, for which he was not having any valid license. The applicant has been implicated in the present crime on the basis of disclosure statement of co-accused-Omkarlal recorded under Section 27 of the Indian Evidence Act.

Learned counsel for the applicant submits that the applicant is innocent and he has been falsely implicated in the present case. Neither he is named in the FIR nor any liquor has been recovered from his possession. He has been implicated in the present crime only on the basis of disclosure statement of co-accused-Omkarlal recorded under Section 27 of the Indian Evidence Act, which is not legal evidence. The applicant is not having any criminal antecedents and the offence registered against the applicant is triable by Judicial Magistrate First Class. The applicant is in custody since 10/10/2018. Investigation is over and charge-sheet has been filed. Conclusion of the trial will take sufficient long time. Learned counsel for the applicant assured that in future

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applicant will not be faulted with the provision of Section 59(A) of the M.P. Excise Act. Under these circumstances, learned counsel for the applicant prays for grant of bail to the applicant.

Learned Public Prosecutor has opposed the application and prayed for its rejection.

Considering the facts and circumstances of the case and the arguments advanced by learned counsel for the parties, but 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 on furnishing a personal bond, by the applicant, in the sum of **Rs.50,000/- (Rupees Fifty Thousand only)**, with one solvent surety of the like amount to the satisfaction of 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) of Cr.P.C.

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.

(S. K. AWASTHI)
Judge

skt