

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

**BEFORE**

**HON'BLE SHRI JUSTICE ROHIT ARYA**

**ON THE 29<sup>th</sup> OF DECEMBER, 2022**

**MISC. CRIMINAL CASE No. 61333 of 2022**

**BETWEEN:-**

**KALYAN S/O SHRI KOMAL SINGH, AGED ABOUT 38  
YEARS, OCCUPATION: LABOUR WARD NO 24  
BERKHEDIRUTHIYAI POLICE STATION DHARNAWADA  
(MADHYA PRADESH)**

**.....PETITIONER**

**(SHRI D. S. RAJAWAT - ADVOCATE)**

**AND**

**THE STATE OF MADHYA PRADESH INCHARGE POLICE  
STATION THROUGH POLICE STATION DHARNAWADA  
(MADHYA PRADESH)**

**.....RESPONDENTS**

**(SHRI ROHIT SHRIVASTAVA - PANEL LAWYER)**

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

**ORDER**

This is first bail application under Section 439 Cr.P.C. filed on behalf of the applicant. The applicant is in custody since 16.10.2022 in connection with Crime No.364/2022 registered at P.S. Dharnawada, District Guna (M.P.) for the offence punishable under Sections 34(2) of Excise Act.

As per prosecution story, present applicant was found in unauthorized and illegal possession of 60litres of illicit liquor alleged to be harmful for human consumption. Accordingly, case has been registered against the applicant.

Learned counsel for the applicant submits that the applicant is innocent

and has been falsely implicated in the offence. Applicant has suffered jail incarceration since 16.10.2022. Due to long jail incarceration, his family is in penury and on the verge of starvation. Moreso, trial is not likely to be concluded early in the near future. Under such circumstances, the prayer for grant of bail may be considered on such terms and conditions as this Court deems fit and proper.

*Per contra*, learned Public Prosecutor opposes the bail application supporting the order impugned.

Upon hearing learned counsel for the parties this Court though refrains from commenting upon the rival contentions touching the merits of the case, regard being had to the fact that the applicant is in custody since 16.10.2022, the possibility of delay in conclusion of trial cannot be ruled out. Hence, the applicant is held entitled for enlargement on bail but with stringent conditions.

Consequently, the application of the applicant filed under Section 439 of the Criminal Procedure Code, 1973, is hereby allowed. It is directed that the applicant be released on bail on furnishing personal bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand only)** with one solvent surety in the like amount to the satisfaction of the learned Trial Court and on the condition that he shall remain present before the Court concerned during trial and also comply with the conditions enumerated under Section 437 (3) of Criminal Procedure Code, 1973 with following further conditions:

(i) the applicant shall mark his attendance before the concerned police station on 2nd and 4th Saturday every month between 10:00 a.m. to 12:00 noon;

(ii) the applicant shall abide by the terms and conditions of various circulars and orders issued by the Government of India and the State Government as well as the local administration from time-to-time in the matter

of maintaining social distancing, physical distancing, hygiene, etc., to avoid proliferation of Novel Corona virus (COVID-19);

(iii) the concerned jail authorities are directed that before releasing the applicant, the medical examination of the applicant be conducted through the jail doctor and if it is prima facie found that he is having any symptoms of COVID-19, then the consequential follow up action or any further test required, be undertaken immediately. If not, the applicant shall be released on bail in terms of the conditions imposed in this order;

(iv) on violation of conditions, State is free to apply for cancellation of bail;

(v) in future, if the applicant is found to be involved in such nature of cases or any other similar criminal cases or misuse the bail granted by this Court, this bail order shall stand cancelled automatically.

Learned Public Prosecutor is directed to send an e-copy of this order to all the concerned including the concerned Station House Officer of the Police Station for information and necessary action.

E-certified copy as per rules.

**(ROHIT ARYA)**  
**V. JUDGE**

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