

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE ANIL VERMA

ON THE 29th OF JULY, 2022

MISC. CRIMINAL CASE No. 35466 of 2022

Between:-

**ASHISH S/O SUKHRAM KUMAWAT,
AGED ABOUT 35 YEARS, OCCUPATION:
LABOURER DAHI DISTRICT DHAR
(MADHYA PRADESH)**

.....PETITIONER

**(BY SHRI MUKESH SINJONIA,
ADVOCATE)**

AND

**THE STATE OF MADHYA PRADESH
STATION HOUSE OFFICER THROUGH
POLICE STATION EXCISE
DEPARTMENT GANDHWANI DHAR
(MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI HEMANT SHARMA ADVOCATE

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

ORDER

Applicant has filed this first bail application under Section 439 of the Code of Criminal Procedure, 1973 in connection with Crime No.37/2022 registered at P.S – Excise Department Gandhwani, Dhar District- Dhar (M.P.) for commission of offence punishable under Sections 34(1), 34(2)(a) and 49(1) (a) of MP Excise Act

Signature Not Verified

Signed by: AMOL N
MAHANAG
Signing time: 7/30/2022
10:24:33 AM

As per prosecution story, on 24/02/2022 upon information from the informer, Assistant Excise Officer intercepted one *eicher* vehicle and seized 7000 bulk liters rectified spirit from the vehicle. Accordingly, the aforementioned offence was registered and he was arrested.

Learned counsel for the applicant contended that applicant is innocent and has been falsely implicated in this offence. There is no legal evidence available on record to connect the applicant with the aforementioned offence. Investigation is almost over therefore, no further custodial interrogation of the applicant is required.. The alleged offence is exclusively triable by JMFC. He is in custody since 24/04/2022 He is a permanent resident of District- Dhar. There is no apprehension of his fleeing away from the court of justice. Final conclusion of trial shall take sufficient long time. Under the above circumstances, prayer for grant of bail may be considered on such terms and conditions, as this Court deems fit and proper.

Per-contra, learned PL for respondent – State opposes the bail application and prays for its rejection by submitting that five criminal antecedents have been registered against the applicant out of which, three cases are related to section 34 of M.P. Excise Act,.

Perused the impugned order of the trial Court, the statements of the witnesses as well as the case dairy.

Considering all the facts and circumstances of the case, arguments advanced by both the parties, nature of allegation as also taking note of the fact that the alleged offence is exclusively triable by JMFC; the applicant is in custody since 24/04/2022 investigation is over and charge-sheet has been filed, therefore, no further custodial interrogation of the applicant is required.;and possibility of delay in conclusion of the trial cannot be ruled out, in

view of the evidence available on record, I deem it proper to release the accused / applicant on bail.

Accordingly, without commenting on the merits of the case, the application is allowed. It is directed that the applicant be released on bail on his furnishing personal bond in the sum of **Rs. 70,000/- (Rs. Seventy Thousand only)** with one solvent surety in the like amount to the satisfaction of the trial Court for his appearance before the trial Court, as and when required. He shall abide by the conditions enumerated u/S. 437(3) Cr.P.C.,

It is made clear that if the applicant is again found to be involved in any other offence during the trial, this order shall stand cancelled automatically without reference to the Court and the police will be at liberty to arrest the applicant in the present case also. 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.

(ANIL VERMA)
J U D G E

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