

IN THE HIGH COURT OF MADHYA PRADESH**AT INDORE****BEFORE****HON'BLE SHRI JUSTICE PRANAY VERMA****ON THE 30th OF AUGUST, 2022****MISC. CRIMINAL CASE No. 40355 of 2022****Between:-****YOGENDRA @ KALU S/O SURAT SINGH BHILALA, AGED ABOUT 40 YEARS,
OCCUPATION: LABOUR GRAM MAKADWANI MALIPURA TEHSIL DAHI
DISTRICT DHAR (MADHYA PRADESH)****.....APPLICANT****(VIKAS RATHI, LEARNED COUNSEL FOR THE APPLICANT)****AND****THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THROUGH
POLICE STATION DAHI DISTRICT DHAR (MADHYA PRADESH)****.....RESPONDENTS****(MS.BHARTI LAKKAD , PANEL LAWYER FOR STATE)***This application coming on for admission this day, the court passed the following:***ORDER**

Heard. Perused the case-diary.

2. This is second application under Section 439 of Criminal Procedure Code, 1973 by the applicant. The applicant is implicated in connection with Crime No.119/2021, registered at Police Station – Dahi, District Dhar, for offence punishable under Sections 49(1)(A)/32(2)/34(1)(F) of M.P. Excise Act. The applicant is in custody since 15.5.2022.
3. First application bearing M.Cr.C.No.34527/2022 was dismissed as withdrawn by order dated 19.7.2022 with liberty to renew the prayer after

filing of the charge sheet. It is submitted that after passing of the aforesaid order charge sheet has been filed.

4. The allegation against the applicant is that from his possession of 120 bulk litres of illicit liquor and rectified spirit have been seized.

5. Learned counsel for the applicant has submitted that applicant is innocent and has been falsely implicated in the case. It is further submitted that no document is produced by the prosecution to establish that this was a poisonous liquor except assumption of seizing officer. Though the seized liquor is sent to FSL for chemical analysis but report is awaited. There is no evidence against him. The conclusion of trial is likely to take time. The applicant is permanent resident of District Dhar and there is no possibility of his absconding. Applicant is ready to furnish adequate security. He is in custody since 15.5.2022. Investigation is complete and charge sheet has already been filed. On such grounds prayer for grant of bail is made.

6. The aforesaid prayer is opposed by counsel for the respondent/State stating that the FSL report has been sought for though the same is yet to be received.

7. Considering that the police has completed the investigation and nothing is there except assumption of the Seizing Officer that the seized liquid was poisonous or unfit for human consumption and other facts and circumstances of the case, I deem it proper to release the applicant on bail. Therefore, without commenting on merits of the case, the application is allowed.

8. It is directed that the applicant be released from custody on his furnishing a personal bond in the sum of **Rs.50,000/- (Rs.Fifty Thousand Only)** with one solvent surety of the like amount to the satisfaction of the Trial Court for his appearance before the Trial Court as and when required further subject to the following conditions :-

- (i) The applicant shall co-operate with the trial and shall not seek unnecessary adjournments on frivolous grounds to protract the trial;
- (ii) The applicant shall not directly or indirectly allure or make any inducement, threat or promise to the prosecution witnesses, so as to dissuade them from disclosing truth before the Court;
- (iii) The applicant shall not commit any offence or involve in any criminal activity;
- (iv) In case of his involvement in any other criminal activity or breach of any other aforesaid conditions, the bail granted in this case may also be cancelled.

9. However, this bail shall be subject to FSL report. In case, the FSL confirms that the seized liquid is poisonous or is not fit for human consumption, this order shall automatically come to an end and the applicant shall immediately surrender before the Court.

10. With the aforesaid directions, M.Cr.C. stands allowed and disposed off.
Certified copy as per rules.

(PRANAY VERMA)

JUDGE

SS/-

Digitally signed by SHAILESH
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