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

**BEFORE
HON'BLE SHRI JUSTICE PRANAY VERMA**

ON THE 31st OF OCTOBER, 2022

MISC. CRIMINAL CASE No. 48351 of 2022

BETWEEN:-

1. **IRFAN SHAH S/O IBRAHIM SHAH, AGED ABOUT 26 YEARS, OCCUPATION: LABOUR, SARANGPUR, DISTRICT RAJGARH (MADHYA PRADESH)**
2. **FARUKH S/O HAFIZ KHAN, AGED ABOUT 25 YEARS, OCCUPATION: LABOUR, SARANGPUR, DISTRICT RAJGARH. (MADHYA PRADESH)**

.....APPLICANTS

(BY SHRI AKHILESH KUMAR SAXENA, ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH STATION
HOUSE OFFICER THROUGH POLICE STATION
SARANGPUR DISTRICT RAJGARH (MADHYA
PRADESH)**

.....RESPONDENT

(BY MS. ARCHANA MAHESHWARI, PANEL LAWYER)

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

ORDER

1. They are heard. Perused the case diary /challan papers.
2. This is a **First** application under Section **439** of Criminal Procedure Code, 1973, as the applicant is implicated in connection with **Crime No.409/2022** registered at **Police Station Sarangpur, District Rajgarh (MP)** for offence punishable under **Sections 4, 6, 9 M.P. Govansh Vadh Adhiniyam, 2004, Sections 4, 6, 10 M.P. Krushak Pashu Parikshan Adhiniyam and Section**

11(1)(D) Pashu Krurta Adhiniyam and Section 34(2) M.P. Excise Act, Section 132/177(1) of the Motor Vehicle Act and Section 429 of the IPC, 1860.

3. The applicant is in custody since 16.09.2022.

4. As per the prosecution, on 24.07.2022, on receipt of a secret information the Police party reached A.B. Road at Sarangpur and tried to stop a Tata Ultra vehicle bearing registration No.UP-01-F-9163 which was coming from the other side. The driver of the vehicle drove the same at a fast speed and was chased by the Police party and when the vehicle was eventually stopped the driver and the two other persons who were sitting in the same managed to run away. On search 23 cattle were found loaded in the vehicle one of which had expired. All the cattle were being transported in the vehicle for the purpose of being slaughtered. They were kept therein in torturous condition. 80 liter liquor was also recovered from the vehicle. On registration of the FIR investigation was commenced, during course of which applicants have been implicated and arrested for the present offence.

5. Learned counsel for the applicants submits that the applicants are innocent and have falsely been implicated in the case. Besides the memorandum of co-accused and their own memorandum recorded under Section 27 of the Evidence Act, there is no other material available to implicate the applicants with the present case. No recovery has been made from the applicants and they have not been identified by anyone. FIR was lodged against unknown persons. There is no material direct or indirect to indicate that the applicants were involved in the present case. On such grounds prayer for grant of bail to the applicants has been made.

6. The aforesaid prayer has been opposed by the learned counsel for the

respondent/State submitting that in view of the allegations levelled against the applicants they are not entitled to be released on bail. It is further submitted that the applicants are having criminal antecedents with three more cases registered against applicant No.1 and six more cases registered against applicant No.2.

7. I have heard learned counsel for the parties and have perused the case diary.

8. The implication of the applicants appears to be solely on the basis of memorandum of co-accused and their own memorandum recorded under Section 27 of the Evidence Act. The applicants have not been named in the FIR which was against unknown persons and were not apprehended on the spot. They have been arrested later on but there does not appear to have been any identification done after their arrest. There is no direct evidence linking the applicants to the present offence. Thus, in my opinion, in view of the material available on record, the applicants deserve to be enlarged on bail.

9. Accordingly, without commenting on the merits of the case, the application filed by the applicants is allowed. The applicants are directed to be released on bail upon furnishing a personal bond in the sum of **Rs.50,000/- (Rupees Fifty Thousand Only) each with one solvent surety each** of the like amount to the satisfaction of the trial Court for their regular appearance before the trial Court during trial with a condition that they shall remain present before the court concerned during trial and shall also abide by the conditions enumerated under Section 437 (3) Criminal Procedure Code, 1973.

10. 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.

(PRANAY VERMA)
JUDGE

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