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

**BEFORE
HON'BLE SHRI JUSTICE AMAR NATH (KESHARWANI)**

ON THE 29th OF DECEMBER, 2022

MISC. CRIMINAL CASE No. 58800 of 2022

BETWEEN:-

**KASIM KHAN PATHAN @ BANTI S/O GAFFAR KHAN
PATHAN, AGED ABOUT 37 YEARS, OCCUPATION:
LABOUR NEAR AAYESHA MAZJID, GEETA NAGAR,
CHANDAN NAGAR, INDORE (MADHYA PRADESH)**

.....APPLICANT

**(SHRI SANTOSH KUMAR MEENA, LEARNED COUNSEL FOR THE
APPLICANT)**

AND

**THE STATE OF MADHYA PRADESH STATION HOUSE
OFFICER THROUGH POLICE STATION CITY KOTWALI
MANDSAUR (MADHYA PRADESH)**

.....NON-APPLICANT

(SHRI SANJAY KARANJAYWALA, LEARNED GOVERNMENT ADVOCATE)

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

ORDER

☐ This is first application filed under Section 439 Cr.P.C seeking bail in connection with Crime No.654/2022 registered at police station City Kotwali, District-Mandsaur for the offence punishable under Section 8/22, 29 of NDPS Act. Applicant is in jail w.e.f. 31/10/2022.

As per prosecution case, 50 grams of M.D. (Mephedrone) powder was recovered from the possession of co-accused - Shahrukh and present applicant

- Kasim @ Banti was also on the spot.

Learned counsel for the applicant submits that the applicant is innocent and he has been falsely implicated in the case. No contraband was recovered from the present applicant and only mobile phone was recovered. Applicant is in custody since 31/10/2022 and no criminal antecedent is attributed to the applicant. The investigation is complete and charge sheet was filed on 27/12/2022. There is no likelihood of early conclusion of the trial, hence prays for release of the applicant on bail.

Per contra, learned Govt. Advocate opposes the prayer for bail submitting that present applicant was arrested on spot and his name was mentioned in the FIR though the contraband has been seized from Shahrukh and this applicant was also present on the spot.

Considered the arguments advanced by the learned counsel for the parties. Commercial quantity of M.D. powder was recovered from the possession of co-accused - Shahrukh and applicant was also present on the spot at the time of seizure with co-accused. Looking to the facts and circumstances of the case and commercial quantity of contraband, it is not a fit case for grant of bail to the applicant. Accordingly, bail application is **dismissed.**

**(AMAR NATH (KESHARWANI))
V. JUDGE**

Aiyer