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

**BEFORE
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

ON THE 30th OF NOVEMBER, 2023

MISC. CRIMINAL CASE No. 34000 of 2023

BETWEEN:-

**AMJAD @ GUDDU LALA S/O AJGAR KHAN, AGED
ABOUT 44 YEARS, OCCUPATION: AGRICULTURIST
VILLAGE BELARI TEHSIL SITAMAU DISTRICT
MANDSAUR (MADHYA PRADESH)**

.....APPLICANT

(BY SHRI SANTOSH KUMAR MEENA, ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH STATION HOUSE
OFFICER THROUGH POLICE STATION NAI AABADI
DISTRICT MANDSAUR (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI AJAY RAJ GUPTA, G.A.)

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

ORDER

They are heard. Perused the case diary / challan papers.

This is the second bail application filed by the applicant under Section 439 of Criminal Procedure Code, 1973, as he / she is implicated in connection with Crime No.82/2022 registered at Police Station Nai Abadi, District Mandsaur (MP) for offence punishable under Section 8/22 of the Narcotic Drugs and Psychotropic Substances Act, 1985. The applicant is in custody since 14/03/2022.

His earlier bail application M.Cr.C. No.43532/2022 was dismissed by this

Court vide order dated 26/12/2022 with liberty to renew prayer after the seizure witnesses are examined.

Allegation against the applicant is that he was found in possession of 200 gram of alprazolam.

Counsel for the applicant has submitted that the seizure witnesses PW/1 Warid Khan and PW/2 Firoz have been examined in the trial Court and have not supported the case of the prosecution, copies of their depositions have also been placed on record. It is also submitted that the applicant has been falsely implicated in the case as the seizure has been staged as the applicant was already in police custody and subsequently the contraband has been shown to be recovered from the applicant. Counsel has also submitted that to show his bonafide, the applicant had also filed an application under Section 91-92 of Cr.P.C. which was rejected by the trial Court, however, this Court has allowed the aforesaid application and the call records have already been saved. Counsel has submitted that the final disposal of the trial is likely to take sufficient long time and the applicant is lodged in jail since 14/03/2022. Hence, it is submitted that the application be allowed and the applicant be released on bail.

Counsel for the respondent/State, on the other hand has opposed the prayer and it is submitted that no case for interference is made out as the commercial quantity of contraband (200 gram alprazolam) has been seized from the possession of the applicant and apart from that, there are as many as 14 cases registered against the applicant including Section 307 of IPC wherein he had fired gunshots on the police personnel and was also absconding for quite some time subsequent to that. Thus, it is submitted that the applicant is liable to be dismissed.

On due consideration of submissions and on perusal of the case diary as

also the documents filed by the applicant on record, and considering the fact that the contraband seized from the applicant is commercial quantity and other 2 cases have also been registered against him under the NDPS Act; one at crime No.08/2002 and other at crime No.323/2020, whereas a case under Section 307 of IPC was also registered against him in the year 2002 at crime No.372/2002 and in the year 2020 also, a case has been registered under Section 294, 323, 353, 332, 307, 147, 148, 149, 212 of IPC and Section 25 and 27 of the Arms Act at crime No.674/2020, whereas another case in the year 2018 under Section 365, 364-A, 34 of IPC at crime No.674/2020 has been registered, in such circumstances, the possibility of the applicant again committing the offence in same and other nature cannot be ruled out. Hence, this Court is not inclined to allow the present application despite the fact that the seizure witnesses have not supported the case of the prosecution.

Accordingly, the application being devoid of merits is hereby *dismissed*.

(SUBODH ABHYANKAR)
JUDGE

krjoshi