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

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

**ON THE 30<sup>th</sup> OF NOVEMBER, 2023**

**MISC. CRIMINAL CASE No. 52952 of 2023**

**BETWEEN:-**

**SHIV KUMAR S/O HARI SINGH RAGHUVANSHI, AGED  
ABOUT 35 YEARS, OCCUPATION: AGRICULTURIST, R/O:  
PATHAR MAHoola, GRAM MAVAN, DISTRICT GUNA  
(MADHYA PRADESH)**

**.....APPLICANT**

***(BY SHRI SOMESH GOBHUIJ - ADVOCATE)***

**AND**

**THE STATE OF MADHYA PRADESH STATION HOUSE  
OFFICER THROUGH POLICE STATION BHIKANGAON,  
DISTRICT KHARGONE (MADHYA PRADESH)**

**.....RESPONDENT**

***(BY SHRI SACHIN JAISWAL - PANEL LAWYER)***

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

**ORDER**

Applicant has filed this first anticipatory bail application under Section 438 of the Code of Criminal Procedure, 1973 on behalf of the applicant for grant of anticipatory bail relating to Crime No.568/2023 registered at P.S. Bhikangoan, District Khargone (M.P.) for commission of offence punishable under Section 34(2) of M.P. Excise Act.

2. As per the prosecution story, 420 bulk liters country-made liquor without having any valid licence was recovered from the possession of co-accused Ravi and Anil and on the basis of their memorandum statement under

section 27 of the Evidence Act, present applicant has been implicated in the instant case. Accordingly, the aforementioned offence was registered and he was arrested.

3. Learned counsel for the applicant submits that the applicant is innocent person and he has been falsely implicated in this matter. He has been made accused in this offence, only on the basis of memorandum given by co-accused persons, but nothing has been recovered from the possession of applicant. Applicant has no criminal antecedent. He is a permanent resident of District Guna. Other co-accused Anil, Ravi and Pankaj have been enlarged on bail by this Court *vide* order dated 06.10.2023, 06.10.2023 and 26.10.2023 passed in MCRC Nos.44448/2023, 44778/2023 and 47438/2023 in the similar circumstances. Final conclusion of trial will take considerable long time. Hence, he prays that the applicant be released on anticipatory bail.

4. Per-contra, learned counsel for respondent/State opposes the bail application and prays for its rejection. However, he fairly admits that applicant has no criminal background.

5. Perused the case diary as well as the impugned order passed by the court below.

6. Considering all the facts and circumstances of the case, arguments advanced by both the parties, nature and gravity of allegation and also taking note of the fact that present applicant has been made accused in this case on the basis of memorandum given by co-accused under Section 27 of Evidence Act, but nothing has been recovered from his possession; applicant has no criminal background; other co-accused persons have been enlarged on bail by this Court in the similar circumstances and that final conclusion of trial will take long sufficient time, I deem it proper to release the applicant on anticipatory bail.

7. Accordingly, without commenting on the merits of the case, the application is allowed. It is directed that in the event of applicant's arrest, the applicant be released on anticipatory bail upon his furnishing a personal bond in the sum of **Rs.70,000/- (Rupees Seventy Thousand Only)** with one solvent surety of the like amount to the satisfaction of the Arresting Officer for his appearance before the Investigating officer during the course of investigation as and when directed. Conditions of section 438(2) Cr.P.C. shall also apply on the applicant during currency of bail.

8. However, concerning police authorities are directed to ensure the necessary compliance of judgment dated **31.07.2023** passed by Hon'ble the Apex Court in Criminal Appeal No. **2207/2023 (Mohd. Ashfaq Alam Vs. State of Jharkhand and Others)** regarding applicability of the provisions of Section 41 of Cr.P.C.

Certified copy as per rules.

(ANIL VERMA)  
JUDGE

Anushree