

(2021) 05 MP CK 0017

Madhya Pradesh High Court (Gwalior Bench)

Case No: Miscellaneous Criminal Case No.21633 Of 2021

Lakhan Aadiwasi

APPELLANT

Vs

State Of Madhya
Pradesh

RESPONDENT

Date of Decision: May 4, 2021

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 439
- Madhya Pradesh Excise Act, 1915 - Section 34(2)

Hon'ble Judges: Rajeev Kumar Shrivastava, J

Bench: Single Bench

Advocate: Mayank Bajpai, Sangam Jain

Final Decision: Allowed

Judgement

Rajeev Kumar Shrivastava, J

This is the first bail application u/S.439 Cr.P.C filed by the applicant for grant of bail.

Applicant has been arrested on 25.03.2021 by Police Station Sihore, District Shivpuri (MP) in connection with Crime No. 39/2020 registered for the

offence punishable under section 34(2) of MP Excise Act.

As per prosecution story, 60 bulk litres of illicit liquor has been recovered from the possession of the present applicant.

It is submitted by learned counsel for the applicant that the applicant is innocent and he has not committed any offence. Investigation and trial will take

its own time. Hence, prayed for grant of bail. He further undertakes to abide by all the terms and conditions of guidance, circulars and directions

issued by Central Government, State Government as well as Local Administration regarding measures in respect of COVID-19 Pandemic and

maintain hygiene in the vicinity while keeping physical distancing.

Learned counsel for the State has vehemently opposed the application and has submitted that one criminal antecedent of same nature of offence is

pending against the applicant. Hence, prayed to reject the bail application of the applicant.

Learned counsel for the applicant further submitted that Heard learned counsel for the parties at length through VC and considered the arguments

advanced by them and perused the case diary.

Considering the the arguments advanced by learned counsel for the parties, without commenting upon the merits of the case, the application is allowed

and it is hereby directed that the applicant shall be released on bail on his furnishing personal bond of Rs.50,000/- (Rupees fifty thousand only) with

one solvent surety in the like amount to the satisfaction of the Court concerned for his regular appearance before the trial Court concerned on the

dates fixed by it.

In view of COVID-19 pandemic, the jail authorities are directed that before releasing the applicant, his Corona Virus test shall be conducted and if it is

found negative, then the concerned local administration shall make necessary arrangements for sending the applicant to his house, and if his test is

found positive then the applicant shall be immediately sent to concerning hospital for his treatment as per medical norms. If the applicant is fit for

release and if he is in a position to make his personal arrangements, then he shall be released only after taking due travel permission from local

administration. After release, the applicant is further directed to strictly follow all the instructions which may be issued by the Central Govt./State

Govt. or Local Administration for combating the Covid19. If it is found that the applicant has violated any of the instructions (whether general or

specific) issued by the Central Govt./State Govt. or Local Administration, then this order shall automatically lose its effect, and the Local

Administration/Police Authorities shall immediately take him in custody and would send him to the same jail from where he was released.

This order will remain operative subject to compliance of the following conditions by the applicant/s :-

1. The applicant/s will comply with all the terms and conditions of the bond executed by him/her;
2. The applicant/s will cooperate in the investigation/trial, as the case may be;
3. The applicant/s will not indulge himself/herself/themselves in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicant/s shall not commit an offence similar to the offence of which he/she is accused; in case of repetition of any offence, this bail order shall stand cancelled automatically;
5. The applicant/s will not move in the vicinity of complainant party and applicant/s will not seek unnecessary adjournments during the trial;
6. The applicant/s will not leave Gwalior and India without previous permission of the trial Court/Investigating Officer, as the case may be; and
7. The applicant/s will inform the SHO of concerned Police Station about his/her/their residential address in the said area and it would be the duty of the State Counsel to send E-copy of this order to SHO of concerned Police Station for information.

Application stands allowed and disposed of.

E- copy of this order be sent to the trial Court concerned for compliance, if possible for the office of this Court.

Certified copy/ e-copy as per rules/directions.