

Prahadsingh Vs State Of M.P

Miscellaneous Criminal Case No.54826 Of 2021

Court: Madhya Pradesh High Court (Indore Bench)

Date of Decision: Nov. 9, 2021

Acts Referred:

Code Of Criminal Procedure, 1973 " Section 438, 438(2)#Madhya Pradesh Excise Act, 1915
" Section 34(2)#Evidence Act, 1872 " Section 27

Hon'ble Judges: Anil Verma, J

Bench: Single Bench

Advocate: Abhay Saraswat, Neeraj Gaur

Final Decision: Disposed Of

Judgement

Anil Verma, J

This is first bail application filed by applicant under section 438 of Cr.P.C. 1973. The applicant apprehends his arrest in connection with the offence

punishable under sections 34(2) of MP Excise Act registered as crime No.324/2021 at police station Alot, District Ratlam.

As per the prosecution story, on 5.8.2021, police received secret information from the informant that 3 persons were transporting illicit liquor. To act

upon such information, police reached on the spot and tried to intercept three persons but two coaccused persons ran away from the spot and another

co-accused Ramsingh was caught by the police and from his possession, 190.08 bulk liters of liquor was recovered. Ram Singh disclosed name of

present applicant and other co-accused persons in his statement recorded under Section 27 of Indian Evidence Act. On the basis of said statement,

offence has also been registered against the applicant.

Learned counsel for applicant submits that applicant is innocent and he has been falsely implicated in the aforementioned offence. Nothing has been

recovered from his possession, he has been implicated on the basis of memorandum given by the coaccused under Section 27 of Evidence Act, which

is not permissible in the eyes of law. Investigation is almost over and the applicant is not required for further interrogation. Learned counsel further

submits that coaccused "Arjun has been released on anticipatory bail by this Court vide order dated 05.10.2021 passed in M.Cr.C. No.43689/2021,

hence, on the ground of parity also, the present applicant deserves for grant of anticipatory bail. Under such circumstances, learned counsel prays for

grant of anticipatory bail to the applicant.

Per-contra, learned PL for the respondent /State opposes the bail application and prays for its rejection.

Case diary as well as impugned order perused.

Considering the facts and circumstances of the case and the fact that applicant is implicated only on the basis of memorandum of co-accused

recorded under Section 27 of Evidence Act, and nothing has been recovered from possession of applicant, offence is exclusively triable by JMFC,

without commenting upon merits of the case, the present anticipatory bail application deserves to be and is hereby allowed.

Accordingly, in the event of arrest in crime No.324/21 applicant -Prahadsingh be released on anticipatory bail on his furnishing personal bond in the

sum of Rs.50,000/- (Rs. Fifty Thousand) with one surety in the like amount to the satisfaction of 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.

With the aforesaid, the application stands disposed of.

Certified copy, as per rules.