

**(2024) 04 MP CK 0016**

**Madhya Pradesh High Court (Indore Bench)**

**Case No:** Miscellaneous Criminal Case No. 12630 Of 2024

Abdul Jabbar

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

**Date of Decision:** April 2, 2024

**Acts Referred:**

- Code Of Criminal Procedure, 1973 - Section 437(3), 439
- Narcotic Drugs And Psychotropic Substances Act, 1985 - Section 8, 15

**Hon'ble Judges:** Pranay Verma, J

**Bench:** Single Bench

**Advocate:** Nilesh Dave, Anendra Singh Parihar

**Final Decision:** Allowed

**Judgement**

Pranay Verma, J

1. This is the first application under Section 439 of Criminal Procedure Code, 1973. The applicant is implicated in connection with Crime No.160/2023 registered at Police Station Ratangarh, District Neemuch (MP) for offence punishable under Section 8/15 of Narcotic Drugs and Psycrtopic Substances Act, 1985. The applicant is in custody since 18.08.2023.

2. As per the prosecution, on 18.08.2023 on receipt of a secret information the Police party carried out a blockade at Jaat Vijaypur Road, Gol Dungri Chouraha and recovered total 400 k.g. of contraband Poppy Straw from the possession of the applicant which was being transported by him in a tractor trolley bearing registration No.MP-44 -AB-8662. On the basis of the recovery made from the applicant, he has been implicated and arrested for the present offence.

3. Learned counsel for the applicant submits that the materiel which was being transported by the applicant was a licensed product and he has been granted licence for cultivation of Poppy Straw for the period 01.10.2021 to 30.09.2022 and

from 01.10.2022 up to 30.09.2023 in Village Jaat-C Singroli, District-Neemuch over survey No.523. The applicant was transporting the product from the field to the house hence it cannot be said that any illegal transportation has been done by the applicant. The investigation has been completed and charge sheet has been filed and the applicant is in custody since 18.08.2023. The trial shall take time for its conclusion. On such grounds prayer for grant of bail to the applicant has been made.

4. The aforesaid prayer has been opposed by the learned counsel for the respondent/State submitting that in view of the allegations leveled against the applicant and the fact that he is having four criminal antecedents under the IPC., he is not entitled to be released on bail.

5. I have heard learned counsel for the parties and have perused the case diary.

6. The applicant has been apprehended on 18.08.2023 i.e during the period the licence in his favour for cultivation of Poppy Straw was in force. Recovery has been made from the applicant between the area of his field and his village where his house is stated to be situated. Thus, *prima facie* it does not appear to be a case of illegal transportation of the contraband. The investigation has been completed and charge sheet has been filed and the applicant is in custody since 18.08.2023. The trial shall take time for its conclusion. Thus, in my opinion, the applicant deserves to be released on bail.

7. Accordingly, without commenting on the merits of the case, the application filed by the applicant is allowed. The applicant is directed to be released on bail upon furnishing a personal bond in the sum of Rs.2,00,000/- (Rupees Two Lakhs Only) with one solvent surety of the like amount to the satisfaction of the trial Court for his regular appearance before the trial Court during trial with a condition that he shall remain present before the court concerned during trial and shall also abide by the conditions enumerated under Section 437 (3) Criminal Procedure Code, 1973.

8. This order shall be effective till the end of the trial, however, in case of bail jump, it shall become ineffective.

Certified copy as per rules.