

The High Court Of Madhya Pradesh**MCRC-32263-2021***(YASWANT Vs THE STATE OF MADHYA PRADESH)***Jabalpur, Dated : 11-08-2021****Heard through Video Conferencing.**

Shri Anurag Sahu, Advocate for the applicant.

Shri Gopal Jaiswal, Panel Lawyer for the respondent-State.

This is first bail application filed by the applicants under Section 439 of the Code of Criminal Procedure.

The applicant is in custody since 13.6.2021, in connection with Crime No.449/2021 registered at Police Station City Kotwali Khandwa, District Khandwa (M.P.) for the offence punishable under Sections 34(1) & 49-A of M.P. Excise Act.

As per prosecution story, on 13.6.2021, 9 bulk liters of handmade liquor (Mahuwa) was seized from the possession of accused/applicant. Thereafter, case has been registered against the accused/applicant for the aforesaid offence.

Learned counsel for the applicant submits that accused/applicant has been falsely implicated in this case. There is no criminal antecedent against the present applicant, so there is no probability to repeat the offence. No liquor was seized from the possession of accused/applicant. FSL report is not available, but it cannot be said that seized liquor is unfit for human consumption. The accused/applicant is in custody since 13.6.2021. Charge sheet has been filed in this case. It is the time of COVID-19, Pandemic, so conclusion of trial will take long time. The accused/applicant is labour, bread earner of his family and if he is kept in custody for an unlimited period, then future of his family will be spoiled. There is no probability of his absconding or tampering with the prosecution evidence. The accused/ applicant ready to furnish bail as per the order, abiding with all conditions imposed by the Court. On these grounds, learned counsel for the applicant prays for grant of bail to the applicant.

Per-contra, learned Panel Lawyer opposes the bail application.

After hearing arguments of the parties and looking to the facts and circumstances of the case as also the fact that accused/applicant

has no previous criminal antecedent, so there is no probability to repeat the offence, the applicant is in jail since 13.6.2021, charge sheet has been filed, it is the time of COVID-19, Pandemic, so conclusion of trial will take long time applicant is labour and bread earner of his family, there is no probability of his absconding or tampering with the prosecution evidence, it would be appropriate to release the applicant on bail, therefore without commenting on merits of the case, application of the applicant under Section 439 of the Cr.P.C. seems to be acceptable. Consequently, it is hereby **allowed**.

It is directed that **applicant-Jaswant** be released on bail on his furnishing bail bond in the sum of **Rs.50,000/-(Rupees Fifty Thousand)** with one surety of the same amount each to the satisfaction of the JMFC concerned or trial Court for his appearance before the trial Court on the dates given by the concerned Court. It is directed that the applicant shall comply with the provisions of Section 437(3) of the Cr.P.C. In view of the outbreak of 'Corona Virus disease (COVID-19)' the applicant shall also comply the rules and norms of social distancing.

Further, in view of the order passed by the Hon'ble Supreme Court in suo moto W.P.No.1/2020, it would be appropriate to issue the following direction to the jail authority :-

1. *The Jail Authority shall ensure the medical examination of the applicant by the jail doctor before his release.*
2. *The applicant shall not be released if he is suffering from 'Corona Virus disease'. For this purpose appropriate tests will be carried out.*
3. *If it is found that the applicant is suffering from 'Corona Virus disease', necessary steps will be taken by the concerned authority by placing him in appropriate quarantine facility.*

Certified copy as per rules.

(RAJENDRA KUMAR SRIVASTAVA)
JUDGE

A.Praj.