

**MCRC.3196/2015.**

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**Rakesh Rathore Vs. State of M.P.**

**27.04.2015.**

Shri A.S.Bhadoria, learned counsel for the applicant.

Shri Mukund Bhardawaj, learned PP for the respondent /state.

Heard.

This is the first application for regular bail under Section 439 of the Cr.P.C. filed on behalf of the applicant.

The applicant is in custody since 23.03.2015 in connection with Crime No. 192 of 2015 registered at Police Station Janakganj, District Gwalior, for the offence punishable under Section 34(2) of the M.P. Excise Act.

For allegedly possessing 63 liters of illicit liquor on behalf of the applicant, it is submitted that the applicant is innocent and has been falsely implicated. It is further contended that on 26.3.2015 when the applicant was going to his village after purchasing goods for marriage of his daughter, he has been falsely implicated. The applicant claimed that he was also implicated falsely in a National Security Act case in which, the Hon'ble High Court has exonerated him from the charges. He has filed an application before the High Court to initiate action against the police officers. It is also claimed that the applicant is running a flour mill and is not likely to be absconding. Therefore, the applicant be given the benefit of bail.

On behalf of the State, learned Public Prosecutor opposed the application.

Perused the record.

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63 liters of liquor has been seized from the possession of the applicant. The trial will take considerable time. During trial, detention cannot be resorted to as a mode of punishment.

Keeping in view the facts stated above, without commenting anything on the merits of the case, application under Section 439 of Cr.P.C. is allowed.

It is directed that the applicant shall be released on bail on his furnishing personal bond in a sum of **Rs.50,000/- (Rupees Fifty thousand only)** with one solvent surety in the like amount to the satisfaction of the Trial Court for securing his presence before the concerned Court on all the dates of hearing fixed in this regard during trial.

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

1. The applicant will not interfere or influence the prosecution witnesses;
2. The applicant will make himself available or represent through his counsel on early date of proceedings
3. The applicant will not indulge in any similar offences during the pendency of the trial.
4. If the applicant found breach of any of the conditions above, the learned Trial Court would be at liberty to reconsider on the question of bail.

A copy of this order be sent to concerned court for compliance.

Certified copy as per rules.

**(S.K.PALO)**  
**JUDGE**

Rks/-