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**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

**BEFORE
HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR
ON THE 12th OF JANUARY, 2024**

MISCELLANEOUS CRIMINAL CASE No. 957 of 2024

BETWEEN:-

**SHAITAN S/O SHRI GOKUL PRAJAPATI, AGED ABOUT 36
YEARS, RESIDENT OF VILLAGE MOHRI POLICE
STATION PIPRAI, DISTRICT ASHOKNAGAR (MADHYA
PRADESH)**

.....APPLICANT

(SHRI JITENDRA SINGH KUSHWAH -ADVOCATE FOR THE APPLICANT)

AND

**THE STATE OF MADHYA PRADESH INCHARGE POLICE
STATION THROUGH POLICE STATION PIPRAI DISTRICT
ASHOKNAGAR (MADHYA PRADESH)**

.....RESPONDENT

***(SHRI DHEERAJ. BUDHOOLIYA - LEARNED PUBLIC PROSECUTOR FOR
THE RESPONDENT-STATE***

.....
*This application coming on for HEARING this day, the court passed
the following:*

ORDER

This first bail application has been filed by applicant under section 439 of the Code of Criminal Procedure, 1973 for grant of bail in connection with Crime No 348/2023 registered at Police Station Piprai, District Ashoknagar (M.P.), for an offence punishable under section 34(2) of the Excise Act. The applicant is in judicial custody since 07/12/2023.

According to the prosecution case, on secret information, on 07/12/2023 Shri Hari Singh Tomar, ASI alongwith police force reached at village Mohari and intercepted the applicant. Applicant was found to be in

possession of two canes containing country made raw liquor quantity 58 bulk liters, therefore, offence punishable under Section 34(2) of M.P. Excise Act was registered by Police Station Piprai, District Ashoknagar (M.P.) and applicant was arrested on 07/12/2023, he is in custody ever since. After completion of investigation, final report was submitted on 04/01/2024.

Learned Counsel for the applicant, in addition to the grounds mentioned in the application, submits that applicant has been falsely implicated in this matter. No offence as alleged is made out against the applicant. He is permanent resident of Village Piprai, District Ashoknagar (M.P.). Applicant is aged 32 years. He is sole bread earner in the family and there is no likelihood of his absconsion leaving family and property. Final report has been filed, therefore, no further custodial interrogation is needed. No criminal antecedent is reported against the applicant. There is no likelihood of repeat of offence. Jail incarceration is causing financial hardship to the family of the applicant. The alleged offence is triable by Judicial Magistrate First Class. The trial would take time to complete. Therefore, applicant may be extended the benefit of bail.

Per contra, learned Counsel for the State opposes the bail application.

Heard learned counsel for the parties and perused the case diary.

Considering the arguments advanced by both the parties and overall circumstances of the case but without commenting on merits of the case, this Court is inclined to release the applicant on bail. Thus, the application is allowed.

Accordingly, it is directed that **applicant SHAITAN** shall be released on bail in relation to Crime No 348/2023 registered at Police Station Piprai, District Ashoknagar (M.P.), for an offence punishable under section 34(2) of the

Excise Act, upon furnishing a personal bond in the sum of **Rs. 50,000/- (Rs. Fifty Thousand Only)** with one solvent surety of the same amount to the satisfaction of the Trial Court, for compliance with the following conditions, :
(For the sake of convenience of understanding by accused and surety, the conditions of bail are also reproduced in Hindi as under):-

(1) Applicant shall remain present on every date of hearing as may he directed by the concerned court;

(1) आवेदक संबंधित न्यायालय के निर्देशानुसार सुनवाई की प्रत्येक तिथि पर उपस्थित रहेगा।

(2) Applicant shall not commit or get involved in any offence of similar nature;

(2) आवेदक समान प्रकृति का कोई अपराध नहीं करेगा या उसमें सम्मिलित नहीं होगा।

(3) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them/him/her from disclosing such facts to the Court or to the police officer;

(3) आवेदक प्रकरण के तथ्यों से परिचित किसी व्यक्ति को प्रत्यक्ष या अप्रत्यक्ष रूप से प्रलोभन, धमकी या वचन नहीं देगा, जिससे ऐसा व्यक्ति ऐसे तथ्यों को न्यायालय या पुलिस अधिकारी को प्रकट करने से निवारित हो।

(4) Applicant shall not directly or indirectly attempt to temper with the evidence or allure, pressurize or threaten the witness;

(4) आवेदक प्रत्यक्ष या अप्रत्यक्ष रूप से साक्ष्य के साथ छेड़छाड़ करने का या साक्षी या साक्षियों को बहलाने-फुसलाने, दबाव डालने या धमकाने का प्रयास नहीं करेगा।

(5) During trial, the applicant shall ensure due compliance of provisions of Section 309 of Cr.P.C. regarding examination of witnesses in attendance;

(5) विचारण के दौरान, उपस्थित गवाहों से परीक्षण के संबंध में आवेदक धारा 309 दं.प्र.सं. के प्रावधानों का उचित अनुपालन सुनिश्चित करेगा।

This order shall be effective till the end of trial. However, in case of breach of any of the precondition of bail, the Trial Court may consider on merit cancellation of bail without any impediment of this order.

The trial Court shall get these conditions reproduced on the personal bond by the accused and on surety bond by the surety concerned, if any of them is unable to write, the scribe shall certify that he had explained the conditions to the concerned accused or the surety.

C.C. as per rules.

MKB

(SANJEEV S KALGAONKAR)
JUDGE

