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

**BEFORE
HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR**

ON THE 16th OF JANUARY, 2024

MISC. CRIMINAL CASE No. 1827 of 2024

BETWEEN:-

**RAMNIWAS S/O SHRI RAGHUWAR, AGED ABOUT 36
YEARS, VILLAGE MAHAVIRPURA P S BAGCHINI TEH
AND DISTRICT MORENA MP (MADHYA PRADESH)**

.....APPLICANT

(NAROTTAM SHARMA, LEARNED COUNSEL FOR THE APPLICANT),

AND

**THE STATE OF MADHYA PRADESH INCHARGE POLICE
STATION THROUGH POLICE STATION BAGCHINI
DISTRICT MORENA MP (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI PRABHAT PATERIYA, LEARNED PP),

.....
*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.256 of 2023 registered at Police Station Bagchini District Morena (M.P.) for offence punishable under Sections 34(2) of M.P. Excise Act. The applicant is in judicial custody since 26.12.2023.

As per the case of prosecution, on secret information, SHO Bhumika Dube of PS Bagchini along with police force reached village Mahavirpura and behind the house of Ramniwas Kushwah, recovered 7 boxes containing 67 Liters of country made plain liquor. Seeing the police force, one person fled

away from the spot and he could not be intercepted whose name was later on disclosed by the witnesses as applicant Ramprasad Kushwah. The illicit liquor was seized. An offence punishable under Section 34(2) of MP Excise Act was registered by PS Bagchini against applicant- Ramniwas Kushwah. Applicant Ramniwas Kushwah was arrested on 26-12-2023. He is in custody ever since. Statements of witnesses were recorded.

Learned Counsel for the applicant, in addition to the grounds mentioned in the application, submits that the applicant has been falsely implicated in the matter merely on the basis of suspicion. No incriminating article has been recovered from conscious possession of applicant. The applicant is 36 years old having family to look after. He is sole bread earner of the family. There is no likelihood of his absconsion leaving behind the family and home. There is no likelihood of his tampering with the evidence by the applicant. No criminal antecedent similar in nature is reported against the applicant. Jail incarceration is causing hardship to the applicant and his family. The trial would take time to conclude. Therefore, the applicant may be extended the benefit of bail.

Per contra, learned counsel for State opposes bail application on the ground of gravity of alleged offence.

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- Ramniwas** shall be released on bail in relation to Crime No.256 of 2023 registered at Police Station

Bagchini District Morena (M.P.) for offence punishable under Sections 34(2) of M.P. Excise Act, upon furnishing a personal bond in the sum of **Rs. 50,000/- (Rupees 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 applicants 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.

Rks

(SANJEEV S KALGAONKAR)
JUDGE

