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

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

**ON THE 24<sup>th</sup> OF JANUARY, 2024**

**MISC. CRIMINAL CASE No. 1955 of 2024**

**BETWEEN:-**

1. **RAMBABU KURMI S/O SHRI BALRAM KURMI,  
AGED ABOUT 35 YEARS, VISHDHA TEHSIL  
TYONDA DISTRICT VIDISHA M.P. (MADHYA  
PRADESH)**
2. **DINESH @ VAKEEL KURMI S/O NARAYAN SINGH  
KURMI, AGED ABOUT 40 YEARS, R/O LAGDHA  
TEHSIL TYONDA, VIDISHA (MADHYA PRADESH)**

**.....APPLICANT**

**(SHRI JITENDRA SHARMA, LEARNED COUNSEL),**

**AND**

**THE STATE OF MADHYA PRADESH INCHARGE POLICE  
STATION THROUGH POLICE STATION TYONDA  
DISTRICT VIDISHA M.P. (MADHYA PRADESH)**

**.....RESPONDENTS**

**(SHRI V.P.S. TOMAR, LEARNED PL),**

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

**ORDER**

This first bail application has been filed by applicants 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 Tyonda District Vidisha (M.P.) for offence punishable under Section 34 (2) of M.P. Excise Act. The applicants are in custody since 16.12.2023.

As per the case of prosecution, on 16.10.2023, on secret information,

ASI Gaurav Bajpai along with police force of PS Tyonda reached village Bagrod and tried to intercept the applicants on Aactiva. On being chased, both of the persons fled away from the spot leaving Aactiva on the spot. On search two cartoons containing 63 Bulk liters of country made plain liquor was recovered from the spot. Later, during investigation, both these persons were identified as applicants Rambabu and Dinesh alias Vakil Kurmi. On such allegations, Police Station Tyonda Distt. Vidisha registered FIR at Crime No. 256 of 2023 against applicants for offence punishable under Section 34(2) of MP Excise Act. Applicants were arrested on 06.01.2024. Statements of witnesses were recorded. After investigation, final report has been filed on 07.11.2023.

Learned counsel for the applicants, in addition to the grounds mentioned in the application, submits that applicants have been falsely implicated in this matter. No incriminating article was recovered from their conscious possession therefore, alleged offence is not made out against the applicants. They are permanent resident of District Vidisha (M.P.). Applicants are aged around 35 and 40 years respectively. They are labourers by profession and sole bread earners of the family, therefore, there is no likelihood of their absconsion leaving family and home. Final report has been filed, therefore, no further custodial interrogation is needed. Jail incarceration is causing hardship to the family of the applicants. No criminal antecedents are reported against the applicants. 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 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 applicants on bail. Thus, the application is allowed.

Accordingly, it is directed that **applicants Rambau Kurmi and Dinesh alias Vakil Kurmi** shall be released on bail in relation to Crime No.256 of 2023 registered at Police Tyonda District Vidisha (M.P.) for offence punishable under Section 34 (2) of M.P. Excise Act, upon furnishing a personal bond in the sum of **Rs.50,000/-(Rs. Fifty Thousand Only) each** 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) Applicants shall remain present on every date of hearing as may be directed by the concerned court;

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

(2) Applicants 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) Applicants 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) Applicants 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.

**(SANJEEV S KALGAONKAR)**  
**JUDGE**

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