IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SMT. JUSTICE SUNITA YADAV

ON THE 2nd OF FEBRUARY, 2024

MISC. CRIMINAL CASE No. 3679 of 2024

BETWEEN:-

LAXMI NARAYAN SHIVHARE S/O SHRI GYASI RAM SHIVHARE, AGED ABOUT 64 YEARS, OCCUPATION: SHARAB KAROBARI B-17 TANSEN ROAD, ASHOK BIHAR, AJAYPUR GIRRD GWALIOR (MADHYA PRADESH)

.....APPLICANT

(BY MR. SHOORVEER SINGH CHAHAR - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THROUGH POLICE STATION CITY KOTWALI DISTRICT BHIND (MADHYA PRADESH)

.....RESPONDENT/STATE

(BY MR. ROHIT MISHRA - ADDITIONAL ADVOCATE GENERAL)

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

ORDER

This is the second application filed by the applicant under Section 438 of the Cr.P.C. for grant of anticipatory bail relating to FIR No.83 of 2000 registered at Police Station City Kotwali, District Bhind (M.P.) for the offence under Sections 34 and 36 of Excise Act. His first application was dismissed as withdrawn vide order dated 29.12.2023 passed in M.Cr.C. No. 54428 of 2023.

Learned counsel for the applicant - accused argued that applicant is innocent and has been falsely implicated. There is no evidence against him to implicate in this crime in view of the judgment of learned Trial Court passed in

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respect to co-accused. Applicant is the permanent resident of District Gwalior (M.P.) and there is no possibility of his absconsion or tampering with the prosecution evidence. Hence, prayed to allow the anticipatory bail application of the applicant.

On the other hand, learned State counsel vehemently opposed the bail application and argued that applicant-accused has breached the conditions of bail granted to him which is evident from the impugned order. Initially learned trial Court had granted bail to the applicant in the year 2000, thereafter, he breached the condition for thrice and therefore, perpetual warrants of arrest has been issued against the present applicant. It is further argued that applicant is stil absconding and is not cooperating in the investigation. Under these circumstances, applicant is not entitled to get benefit of anticipatory bail.

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

It would not be desirable to enter into merits of the rival contentions at this juncture. It is well settled that the considerations governing grant of anticipatory bail are altogether different from those relevant for the prayer for regular bail.

Taking into consideration the facts and circumstances of the case, looking to the nature of allegation levelled against the applicant and manner in which the applicant/accused is involved in the offence, as alleged by the prosecution, no case for grant of anticipatory bail is made out.

Consequently, the present bail application is hereby **dismissed.**

(SUNITA YADAV)
JUDGE

(LJ*)

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