

1
**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

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

ON THE 2nd OF JANUARY, 2024

MISC. CRIMINAL CASE No. 57968 of 2023

BETWEEN:-

**KALLU PARIHAR S/O SHRI DUNDA PARIHAR, AGED 45
YEARS, R/O KISHANPUR THANA CHINNOR DISTRICT
GWALIOR (MADHYA PRADESH)**

.....APPLICANT

(MS. UMA KUSHWAH- ADVOCATE)

AND

**STATE OF MADHYA PRADESH THROUGH POLICE
STATION CHINNORE DISTRICT GWALIOR (MADHYA
PRADESH)**

.....RESPONDENT

(SHRI R.K. AWASTHI- PUBLIC PROSECUTOR)

*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.92 of 2023 registered at Police Station Chinor, District Gwalior (M.P.) for offence punishable under Sections 34(2) and 49(A) of M.P. Excise Act. The applicant is in judicial custody since 18.12.2023.

As per the case of prosecution, ASI Dayaram along with police force of PS Chinor, on secret information, arraying raid at the house of applicant at Village Kisanpur on 28.05.2023. One person was found manufacturing illicit country made raw liquor and that person fled away from the spot. 60 bulk litres

of country made raw liquor was seized from the place of incident along with equipments for manufacturing of illicit liquor. Due to pungent smell, it was suspected that liquor may be poisonous. Illicit liquor was seized in compliance with due procedure and offence punishable under Sections 34(2) and 49-A of MP Excise Act was registered at Crime No.92 of 2023 against the applicant. Relevant recovery has been made from the applicant. Statements of witnesses have been recorded. The applicant was arrested on 18.12.2023 and he is in custody ever since. On the same day, final report was submitted on 18.12.2023. As per FSL Report received on 04.12.2023, seized liquor contains 29.95% of Ethyle alcohol along with furfural and sediments, therefore, it was found to be unfit for human consumption.

Learned Counsel for the applicant, in addition to the grounds mentioned in the application, submits that applicant has been falsely implicated in the matter. He is Agriculturist by profession. Applicant is aged around 45 years and is sole bread earner in the family, therefore, there is no likelihood of his absconding leaving behind his family and property. As per FSL report, no poisonous or life threatening injurious substance was found in seized liquor. No further custodial interrogation of applicant is needed. No criminal antecedent of similar nature is reported against the applicant. Jail incarceration is causing hardship to the applicant. The trial would take time to complete. Therefore, the applicant may be extended the benefit of bail.

Per contra, learned counsel for State opposes the 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 Kallu Parihar** shall be released on bail in relation to Crime No.92 of 2023 registered at Police Station Chinor, District Gwalior (M.P.) for offence punishable under Sections 34(2) and 49(A) of M.P. Excise Act, upon furnishing a personal bond in the sum of **Rs.1,00,000/- (Rupees One Lac Only)** with one solvent surety 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 be 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, it shall become ineffective without reference to the Court.

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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