IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL DHAGAT

ON THE 8th OF JANUARY, 2024

MISC. CRIMINAL CASE No. 58222 of 2023

BETWEEN:-

SANJAY NAYAK S/O RAMESH NAYAK, AGED ABOUT 22 YEARS, OCCUPATION: UNEMPLOYED NEAR BIJLI GHAR GUHAN POLICE STATION SOHAGPUR DISTRICT NARMADAPURAM (MADHYA PRADESH)

.....APPLICANT

(BY SHRI SOURABH SHRIVASTAVA - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THROUGH POLICE STATION HANUMANGANJ BHOPAL DISTRICT BHOPAL (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI C.P.SINGH PARMAR - GOVT. ADVOCATE)

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

ORDER

This is first application filed by the applicant under Section 439 of the Code of Criminal Procedure for grant of regular bail relating to FIR No.799/2023 registered at Police Station-Hanumanganj, District-Bhopal (MP) for the offence under Section 34(2) of MP Excise Act.

2. Learned counsel appearing for the applicant submitted that no offence under Section 34(2) of MP Excise Act is made out against applicant as there is no previous conviction of the applicant under Section 34(1) of Excise Act. It is submitted that offence is triable by Judicial Magistrate First Class. Applicant is

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first offeder under Excise Act. On these grounds, he prayed that applicant may be enlarged on bail.

3. Learned Government Advocate appearing for the State opposed the application for grant of bail. It is submitted that applicant is also having criminal antecedents.

4. Heard the counsel for the parties.

5. Applicant has first time committed offence under the Excise Act. There is no previous conviction of applicant under Section 34(1) of Excise Act, therefore, offence under Section 34(2) of MP Excise Act will not be made out against applicant.

6. Considering the facts and circumstances of the case, bail application filed by the applicant is **allowed**. It is directed that applicant be released on bail on furnishing personal bond of **Rs.1,00,000/-(Rupees One Lac only)** with one surety in the like amount to the satisfaction of the trial court.

7. The applicant shall also abide by the following conditions of Section 437 (3) of Cr. P. C. as under:-

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter;

(b) that such person shall not commit any offence similar to the offence of which he is accused, or suspected of the commission of which he is suspected and;

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

C.C. as per rules.

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(VISHAL DHAGAT)
JUDGE

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