

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

**BEFORE
HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA**

ON THE 18th OF MARCH, 2024

MISC. CRIMINAL CASE No. 10520 of 2024

BETWEEN:-

**SANTOSH S/O BALARAM YADAV OCCUPATION:
PRIVATE JOB R/O VILLAGE GHATIYA DISTT.UJJAIN
(MADHYA PRADESH)**

.....APPLICANT

(BY SHRI ADITYA CHOUDHARY - ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH STATION HOUSE
OFFICER THROUGH POLICE CHOWKI RINGNOD
POLICE STATION SARDARPUR DISTT. DHAR (MADHYA
PRADESH)**

.....RESPONDENT

(BY SHRI SANTOSH SINGH THAKUR - PUBLIC PROSECUTOR)

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

ORDER

This is first bail application under Section 438 of Cr.P.C for grant of anticipatory bail in connection with crime No.65/2024 dated : not mentioned, registered at P.S. - Sardarpur District - Dhar for offences punishable under Sections 34(2) of M.P. Excise Act.

2. Counsel for the applicant submitted that the name of the applicant is not mentioned in the FIR and, therefore, the Trial Court has erred while rejecting his application for grant of anticipatory bail.

3. Counsel for the State pointed out that during investigation, it has been

found that the liquor was used to be purchased on cheap rates from M/s Samariddhi Traders who had executed the power of attorney. On the basis of power of attorney, the liquor was being supplied to Santosh Yadav. Thus, prima facie it cannot be held that there is no material against the applicant and the case does not fall in rare cases for grant of anticipatory bail as there is a bar for grant of anticipatory bail under Section 59(A)(I) of Excise Act whose constitutional validity has already been upheld in the case of *Naresh Kumar Lahria Vs. State of M.P.* reported in *2004(4) MPHT 205*.

4. After hearing learned counsel for the parties, I do not find any case for grant of anticipatory bail.

5. From the record, it is noted that no notice u/s 41-A of Cr.P.C has been given to the applicant. It is observed that the Police may issue notice to the applicant under Section 41(A) of Cr.P.C and may proceed in accordance with the law in view of the law laid down by the Apex Court in the case of *Arnesh Kumar vs. State of Bihar & Anr.* reported in *(2014) 8 SCC 273*.

6. Accordingly, the present application is **dismissed**.

(VIJAY KUMAR SHUKLA)
JUDGE

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