

# Girwardayal vs The State Of Madhya Pradesh on 23 March, 2021

**Author: Subodh Abhyankar**

**Bench: Subodh Abhyankar**

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M.Cr.C. No.10713/2021

THE HIGH COURT OF MADHYA PRADESH

M.Cr.C. No.10713/2021

(Girwardayal S/o Musaddilal Sharma Vs. State of M.P.)

Indore, Dated: 23/03/2021

Heard through video conferencing.

Shri Vivek Singh, learned counsel for applicant.

Ms. Priyanka Raj Pawar, learned Panel Lawyer for the respondent /

State of Madhya Pradesh.

They are heard. Perused the documents / challan papers. This is applicant's first application under Section 438 of Criminal Procedure Code, 1973 for grant of anticipatory bail, as he is apprehending his arrest in connection with Crime No.52/2021 registered at Police Station Sendhwa (City) District Barwani (MP) for offence punishable under Sections 420 of the Indian Penal Code, 1860.

Allegation against the applicant is that he is running a shop in the name and style of Sharma Namkeen Bhandar at Sendhwa District Barwani. It is alleged that on 03/12/2020, the officers of the Food Department tried the applicant's premises and it was found that he was involved in misbranding the Namkeen products and sample of palm oil was also taken from his shop. Thus, a case under the aforesaid section has been registered against the applicant.

Counsel for the applicant has submitted that the applicant is a businessman and there are no criminal antecedents against him and even according to prosecution, it is not a case where any substandard quality was being sold and the applicant as the sample of palm oil which was obtained from the applicant's shop was also found to be of standard quality. Counsel has submitted that it is only a case of an offence of misbranding which would fall under Section 52 of the Food Safety and Standards Act, 2006 in which only fine is leviable and there is no provision of imprisonment.

Counsel for the applicant has further submitted that in case of applicant's arrest, irreparable injuries would be caused to his reputation as also to the reputation of his business as he is running business since last 20 years in around Sendhwa, District Barwani and no recovery or discovery is to be made from him. It is further submitted that in similar circumstances, the coordinate Bench of this Court has granted anticipatory bail vide order dated 16/03/2021 passed in M.Cr.C. No.10194/2021. Thus, it is submitted that the application be allowed and he be released on anticipatory bail.

Counsel for the respondent / State, on the other hand, has opposed the prayer.

On due consideration of the rival submissions and perusal of the case diary, it is found that the applicant is not involved in sell of any substandard food items and the allegation against him is one of misbranding only which would fall under Section 52 of the Food Safety and Standards Act, 2006. In view of the same, the custodial interrogation of the applicant is not necessary. Thus, this Court is of the considered opinion that the applicant has made out a case for grant of anticipatory bail.

Accordingly, this application is allowed. It is directed that in the event of arrest, applicant shall be released on bail, upon his / her executing a personal bond in the sum of Rs.25,000/- (rupees twenty five thousand only) and furnishing solvent surety in the like amount to the satisfaction of the Arresting Officer (Investigating Officer).

The applicant shall make himself / herself available for interrogation by a Police Officer, as and when required. They shall further abide by the other conditions enumerated in Sub Section (2) of Section 438 of the Code of Criminal Procedure, 1973.

Accordingly, Miscellaneous Criminal Case stands allowed. Certified copy as per rules.

(Subodh Abhyankar) Judge krjoshi Date: 2021.03.23 16:10:53 +05'30'