

# Deepak vs The State Of Madhya Pradesh on 24 February, 2021

**Author: Rohit Arya**

**Bench: Rohit Arya**

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M.Cr.C. No. 10021 of 2021  
( Deepak Vs. State of MP)

THE HIGH COURT OF MADHYA PRADESH  
M.Cr.C. No. 10021 of 2021  
( Deepak Vs. State of MP)

Indore, Dated: 24/2/2021

Shri R.S. Chhabra with Shri Aman Arora learned counsels for applicant.

Shri Arjun Pathak learned Panel Lawyer for the respondent/State.

This is second bail application under Section 439 Cr.P.C. First bail application was dismissed on 12.1.2021 passed in M.Cr.C. No. 52506/2020. The applicant is in custody since 3.10.2020 in connection with Crime No.703/2020 registered at P.S. Kishanganj Mhow, District Indore for the offence punishable under Sections 420, 272, 273 IPC and 26, 27(2)(e), 51, 52, 57, 58, 59, 63 Food Safety and Standard Act, 2006.

The applicant is engaged in the business of producing black pepper and allied consumable products and running the business under the name and style Balaji Trading Company. Four other persons namely Ramesh Makhija, Mukesh Makhija, Sumit Gupta and Teekamdas Aadani running a partnership business under the name and style of Satguru M.K. Traders (Heeng) also engaged in the business of manufacturing consumable items with Heeng and other milk products. On raid conducted at both premises by the Food Security Officer of Food and Drug Administration Department, samples were seized for chemical analysis and sent to the laboratory. Samples were found adulterate, substandard and not fit for human consumption. On aforesaid fact, a detailed report was submitted by Superintendent of Police to the Collector Indore for keeping all of them in detention invoking the powers under Section 3(ii) of National Security Act (NSA). The order was passed on 5th December 2020. In case of applicant, an FIR was already lodged on 3rd December 2020 at crime case no. 703/2020 at Police Station ( Deepak Vs. State of MP) Kishanganj Mhow, District Indore and he was in jail at the time of issuance of the aforesaid order under NSA.

The Central Government in exercise of its power under Section 14 of NSA has revoked the detention order dated 5.12.2020. Remaining four persons accordingly have been set free. Applicant is languished in jail because of the arrest pursuant to the FIR (supra).

Shri Chhabra learned counsel for applicant submits that earlier application was dismissed albeit on merits, but primarily on three counts: (i) This court ruled that even though allegations made against

the applicant were primarily under the Food Safety and Standard Act, 2006 accusing of food adulteration, mixing of foreign materials, substandard and unfit for human consumption, still the prosecution can be launched for the offences under Sections 420, 467, 468, 272, 273 of IPC etc. on allegation of misrepresentation, misbranding, deception and cheating with consumers as alleged in the FIR. (ii) the investigation was in progress. (iii) Detention order has been passed against the applicant on 5.12.2020.

Learned counsel submits that there are two changed circumstances subsequent to the order passed by this Court namely the investigation is complete and detention order dated 5.12.2020 has been revoked, as referred above. Under such circumstances this Court may consider enlargement of the applicant on bail since he is no more required for custodial investigation with no criminal antecedents and he is languishing in jail since 3.12.2020 on such terms and conditions this Court deems fit and proper.

Per contra, learned Panel Lawyer supports the order impugned and vehemently opposes the bail application with submission that there is sufficient material on record that applicant has been engaged in a clandestine activity of adulteration with substandard foreign materials mixed in consumable items ( Deepak Vs. State of MP) particularly black pepper and with misrepresentation sold the commodity to consumers, innocent consumers have fallen prey by deception and misrepresentation in the hands of applicant as the applicant has played with their ignorance. Under such circumstances, it is not a fit case for enlargement on bail. However learned counsel does not dispute that detention order has been revoked and investigation is complete. As on date the applicant is not required for custodial investigation. Applicant has also no criminal antecedents.

Upon hearing learned counsel for the parties, but without touching merits of the contentions so advanced, in the changed circumstances, as detailed above, regard being had to the fact that applicant has suffered jail incarceration since 3.12.2020, not required for further custodial interrogation, and due to Covid-19 pandemic, possibility of delay in conclusion of trial cannot be ruled out, the applicant infact is entitled for bail but on stringent conditions.

Consequently, the application of the applicant filed under Section 439 of the Criminal Procedure Code, 1973 is hereby allowed. It is directed that the applicant be released on bail on furnishing personal bond in the sum of Rs.20,00,000/- (Rs.Twenty lakhs only) with one solvent surety in the like amount to the satisfaction of the learned Trial Court and on the condition that he will remain present before the Court concerned during trial and also comply with the conditions enumerated under Section 437(3) of Criminal Procedure Code, 1973 with following further conditions:

(i) the applicant will abide by the terms and conditions of various circulars and orders issued by the Government of India and the State Government as well as the local administration from time to time in the matter of maintaining social distancing, physical distancing, hygiene, etc., to avoid proliferation of Novel Corona virus (COVID-19);

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(ii) the applicant shall mark his attendance before the concerned Police Station on 2nd and 4th Saturday of every month between 10.00 am to 12.00 noon.

(iii) As and when the applicant is noticed for further investigation or questioning by the I.O. he shall report compliance.

iv) The applicant shall surrender his passport before the trial court.

v) The concerned jail authorities are directed that before releasing the applicant, the medical examination of the applicant be conducted through the jail doctor and if it is prima facie found that he is having any symptoms of COVID-19, then the consequential follow up action or any further test required be undertaken immediately. If not, the applicant will be released on bail in terms of the conditions imposed in this order;

(vi) violation of conditions, State is free to apply for cancellation of bail.

Learned Panel Lawyer is directed to send an e-copy of this order to all the concerned including the concerned Station House Officer of the Police Station for information and necessary action.

Observation on facts are only for the purpose of deciding the instant bail application and shall have no bearing on the pending trial, in any manner, whatsoever.

Registry is directed to send an e-copy of this order to the Court concerned for necessary compliance.

Certified copy as per rules.

(Rohit Arya) Judge BDJ Date: 2021.02.24 18:26:15 +05'30'