NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.No. 3143 OF 2015

Udey Ram S/o Shyam Lal, aged about 35 years, R/o Village Khamhariya, out post Hardi Bazar, Police Station Kusmunda, Civil and Revenue District Korba District Korba (C.G.)

---Applicant

Versus

State of Chhattisgarh, Through Collector, Korba, Out post Hardi Bazar, Police Station Kusmunda, District Korba (C.G.)

---Non-applicant

For Applicant : Mr. Anil Gulati, Advocate
For Non-applicant : Mr. Suvigya Awasthi, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

07/07/2015

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No. 119/2015, registered at Police Station Out Post Hardi Bazar, P.S. Kusmunda District Korba (C.G.), for the offence punishable under Section 34(1)(A), 34(2) of C.G. Excise Act.

2. Case of the prosecution, in brief, is that 8 bulk liters of illegal liquor was seized by the police from the present applicant.

3. Learned counsel for the applicant submits that the applicant is in custody from 10/06/2015. He would further submit that the applicant has falsely been implicated in the case, and therefore, the applicant may be released on bail.

4. On the other hand, learned counsel for the State opposes the bail

application.

5. I have heard counsel appearing for the parties and perused the case diary.

6. Taking into consideration the condition incorporated in Section 59-A(ii) of the C.G. Excise Act, 1915, and bearing in mind the principles of law laid down in **Banti Singh v. State of Chhattisgarh** (M.Cr.C. No.6846 of 2014, decided on 05.01.2015), if the facts of present case are examined, it is apparent that there is no criminal antecedent of the present applicant and only 8 bulk liters of illegal liquor has been seized from him which is more than prescribed limit of 5 bulk liters, but looking to the fact that it is first offence of the applicant and he is in custody from 10/06/2015 and case is triable by the Judicial Magistrate First Class and trial is likely to take some more time and further taking into account the nature and gravity of offence and plea raised by the applicant that he has falsely been implicated in case, I am of the opinion that present is the fit case, in which, the applicant should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed. It is directed that on furnishing a personal bond in the sum of **Rs.25,000/-** with one surety in the like sum to the satisfaction of the concerned Court for his appearance as and when directed, the applicant shall be released on bail, subject to following conditions:

- That, the applicant shall furnish a specific undertaking that while on bail, he will not commit any excise offence, otherwise bail granted to him shall be liable to be cancelled and shall co-operate the prosecution during trial.

- That, the accused/applicant shall make himself available for

interrogation before the concerned Investigating Officer as and when required and the accused/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 him/her from disclosing such facts to the Court or to any police officer.

- That, the accused/applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial.

8. Certified copy as per rules.

Sd/-

(Sanjay K. Agrawal)
JUDGE

Tiwari