

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3911 of 2015**

Gokul Kumar, S/o Tatturam, aged about 40 years,
Caste -Siltara, Police Station Takhatpur, District Bilaspur
(C.G.)

---- Applicant**Versus**

1. State Of Chhattisgarh Through – District Magistrate – Bilaspur (C.G.)
2. Station House Officer – Excise Circle – Takhatpur, District Bilaspur (C.G.) (wrongly mentioned as Station House Officer Excise Bilaspur Warehouse Road in the order sheet)

--- Non-applicant

For Applicant: Mr. Vimlesh Bajpai, Advocate.
For Non-applicant/State: Mr. Neeraj Pradhan, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****20/08/2015**

Heard.

(1) The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure for releasing him on regular bail during trial in connection with Crime No. 109/2015 registered at Police Station Excise Circle, Takhatpur, District Bilaspur (C.G.) for the offence punishable under Section 20-B of the N.D.P.S. Act and Sections 34(1)(2) & 59(A) of the Chhattisgarh Excise Act, 1915.

(2) Case of the prosecution, in brief, is that the applicant was found in possession of 15 bulk liters of illicit liquor & 400 gm

Ganja and thereby committed the aforesaid offences.

(3) Learned counsel for the applicant submits that the applicant has not committed any offence and he has falsely been implicated in the crime in question. He further submits that the applicant is in custody since 07.07.2024 and even otherwise the quantity of 400 gm Ganja seized from the applicant's possession is near to the small quantity as per provisions contained in the NDPS Act 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 the 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 only 15 bulk liters of illicit 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 07.07.2015, case is triable by the Judicial Magistrate First Class, 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 and the fact that as per provisions contained in the NDPS Act, quantity of ganja seized from the applicant is small quantity, 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.

Certified copy, as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-