

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M. Cr. C. No. 4471 OF 2015**

Jai Prakash Yadav son of late Baikunth Yadav, aged about 42 years,
Occupation Driver, R/o Street No. 7, Ward No. 27, Nandani Road, Behind
Dena Bank, Power House Bhilai, District Durg (C.G.)

---Applicant**Versus**

State of Chhattisgarh, Through: The Station House Officer, Police Station
Nandghat, District Bemetara (C.G.)

---Non-applicant

For Applicant	:	Mr. Jitendra Gupta, Advocate
For Non-applicant	:	Mr. Anupam Dubey, Dy. Govt. Advocate and Ms. Ansuiya Rajput, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****14/09/2015**

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. 276/2015, registered at Police Station Nandghat, Bemetara (C.G.), for the offence punishable under Sections 34 (1) (A), 34(2) & 47 (A) of Excise Act.

2. Case of the prosecution, in brief, is that from the vehicle bearing registration Numbers CG-11 AB-0153, 172.80 bulk liters of foreign liquor was recovered and from CG-10 F-4011, 172.80 bulk liters of foreign liquor was recovered and cases were registered for the aforesaid offences.

3. Learned counsel for the applicant would submit that the present applicant is only driver of Swaraj Mazda CG-11 AB-0153, he is neither owner of the vehicle nor owner of the liquor and he was being taken the liquor as directed by the owner of Swaraj Mazda. He would further submit that liquor has been seized from Mohseen Khan and other co-accused Yashwant Singh and Mohd. Tanvir Alam, who were setting in the vehicle. He would also submit

that applicant's daughter has suffered grave burn injury and she is admitted at Bhilai Hospital and for surgery his presence is required. He would lastly submit that applicant is in jail since 13/07/2015 and charge sheet is yet to be filed, therefore, he may be enlarged on bail.

4. On the other hand, learned counsel for the State would oppose the bail application and submit that the applicant was driving the said vehicle and liquor has been recovered from the possession of co-accused Mohseen Khan.

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

6. Taking into consideration the facts and circumstances of the present case; further taking into consideration the nature and gravity of offence; liquor in question has been seized from the possession of Mohseen Khan; seizure was made on 12/07/2015 in the presence of present applicant; role of the present applicant as driver and considering his prayer for his release on bail for treatment of his daughter, who is said to be undergoing treatment at Bhilai Hospital, 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 Code of Criminal Procedure is allowed. It is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of **Rs.25,000/-** with one surety in the like sum to the satisfaction of the concerned trial Court for his appearance as and when directed.

8. Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
JUDGE