

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No.6640 of 2015**

Devcharan S/o Birjhu Caste Marar aged about 22 years Resident of village Mohda P.S. Hirri Tahsil Bilha District Bilaspur.

---Applicant

Versus

State of Chhattisgarh through Excise Circle Bilha Police Station Bilha District Bilaspur (Chhattisgarh)

---Non-applicant

For Applicant	:	Mr. Arvind Sinha, Advocate
For Non-applicant	:	Mr. Dhiraj Wankhede, Govt. Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****23/11/2015**

1. This is second bail application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with **crime No.128/2015** registered at Police Station **Excise Circle Bilha Police Station Bilha District Bilaspur (CG)**, for the offence punishable **under Sections 34(2), 34(1)A and 59A of the Chhattisgarh Excise Act.**

2. Case of the prosecution, in brief, is that, 11.34 **bulk** liters of illicit liquor was seized by the police from the present applicant.

3. Learned counsel for the applicant submits that **first bail application of the applicant has been dismissed as withdrawn with liberty to repeat the same after disposal of criminal case relating to excise offence. Now, in the excise offence, applicant has been acquitted and the copy of order has been filed along with this application,** therefore, the applicant may be released on regular bail.

4. On the other hand, learned counsel for the State would submit that in earlier excise criminal case, present applicant has been acquitted.

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 11.34 bulk liters of illicit liquor has been seized from him which is more than prescribed limit of 5 bulk liters and he is in custody from 10/08/2015 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, I am of the opinion that present is the fit case, in which, the applicant should be enlarged on regular bail.

7. Accordingly, the second 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