

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6711 of 2015

Bharat Nirmalkar, S/o Ramjas Nirmalkar, Aged About 38 Years,
Occupation - Labour, R/o Village - Khairwar, Police Station - Pipariya, Civil
& Revenue District – Kabirdham, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through- District Magistrate / Station House
Officer, Police Station – Pipariya, District Kabirdham, Chhattisgarh.

---- Respondent

For Applicant : Mr. Dharmesh Shrivastava, Advocate

For Respondent : Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

21/12/2015

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.330/2015 registered at Police Station- Pipariya, District Kabirdham (C.G.) for the offence punishable under Section 34(2) of the Excise Act.
2. Case of the prosecution, in brief, is that on 12.11.2015 from the possession of the applicant an illicit liquor measuring about 7.200 bulk liters was seized.
3. Learned counsel for the applicant submits that the applicant has falsely been implicated in this case and the liquor was not seized from his possession. He further submits that the applicant is in jail since 12.11.2015; therefore, he may be released on bail.
4. Learned State counsel opposes the prayer for grant of bail, however, he would submit that as per the information received, another case was registered under Section 34 of Excise Act in the

year 2013 and in response to it, learned counsel for the applicant placed on record the acquittal order dated 13.03.2014 passed in Criminal Case No. 244/2013 wherein in the earlier occasion the applicant has been acquitted.

5. I have perused the order. Taking into fact that on earlier occasion the applicant has been acquitted and further considering the quantity of seized liquor i.e. 7.200 bulk liters, offence is triable by the JMFC and the applicant is in jail since 12.11.2015, this Court is inclined to release the applicant on bail.
6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
7. It is directed that the applicant shall be released on bail on furnishing a personal bond for a 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. It is made clear that if the applicant is found to be involved in similar offence again, this order granting bail to the applicant shall automatically stand canceled without reference to the Court and the concerned police shall be at liberty to re-arrest the applicant in this case also, after informing the concerned Judicial Magistrate where trial is pending.
9. Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge