

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 6859 of 2015

Dwarika Patre, S/o. Veeru Patre, Caste – Satnami, aged about 40 years, R/o. Village Padiyain, P.S. Pathariya, Tahsil & District – Mungeli (C.G.)

---- Applicant

Versus

The State of Chhattisgarh, Through: Station House Officer, Police Station – Pathariya, District – Mungeli (C.G.)

----- Respondent

For Applicant : Mr. F.S. Khare , Advocate

For Respondent : Mr. Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

14/12/2015

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.324/2015 registered at Police Station- Pathariya, District – Mungeli (C.G.) for the offence punishable under Section 34(1)(A), 34 (2) & 59 (A) of the Chhattisgarh Excise Act.
2. The prosecution alleges that the applicant was found to be in possession of illicit liquor measuring about 17.280 bulk liters and he was arrested on 11.11.2015.
3. Learned counsel for the applicant submits that the applicant has falsely been implicated in this case. He would further submit that earlier under similar nature of offence, a crime was registered bearing Crime No.122/2014 and the applicant has been acquitted of the charges by an order dated 29.04.2015 in Criminal Case No.1502/2014. He would

further submit that the applicant is in jail since 11.11.2015 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 information received, except Crime No.122/2014, the applicant has no previous antecedents of similar offence.
5. Taking into consideration the totality of the circumstances and the fact that the quantity of seized liquor is 17.280 bulk liters; offence is triable by the JMFC, the applicant is in jail since 11.11.2015 and the fact that the applicant has been acquitted of the charges under Crime No.122/2014, by the Trial Court in the similar nature of offence, 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