

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2918 of 2015**

1. Gajanand Nishad, S/o Shri Raghu Nishad, aged about 45 years, Occupation - Agriculturist, R/O Village Baigindih, P.S. & Tahsil Baramkela, Civil & Revenue District Raigarh (C.G.)

---- Applicant

Versus

1. State of Chhattisgarh, Through - S.H.O. of The P.S. Baramkela District Raigarh (C.G.)

---- Respondent

For Applicant : Mr. Abhishek Saraf, Advocate
For Respondent/State: Mr. Neeraj Pradhan, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

29/06/2015

The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail, who has been arrested on 4-4-2015 in connection with Crime No. 35 of 2015, registered at Police Station Baramkela District Raigarh (CG) for the offence punishable under Section 34 (1)(A)(2) and 59(A) of the Chhattisgarh Excise Act.

2. The case of the prosecution, in brief, is that the applicant was found in possession of 8 bulk litres of country made liquor without any authority of law.

3. Learned counsel appearing for the applicant would submit that present

applicant has been falsely implicated in the case, nothing has been seized from the possession of the applicant. He would further submit that the applicant is in jail since 4-4-2015 and charge-sheet has been filed, therefore, he may be released on bail.

4. On the other hand, learned counsel for the State opposed 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 Chhattisgarh Excise Act, 1915 and bearing in mind the principles of law laid down in case of **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 8 bulk liters of country made 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 4-4-2015 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 the offence and plea raised by the applicant that he has been falsely implicated in the case, 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 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 the following conditions:

- i) That the applicant shall furnish a specific undertaking that while on bail, he will not commit any offence and shall co-operate the prosecution during trial. otherwise bail granted to him shall be liable to be cancelled.
- ii) 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.
- iii) 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

Raju