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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3096 of 2015

- Gyandas s/o. Biharilal Kurrey, aged about 32 years, r/o. Vatgan, PS Palari, Civil & Revenue Distt. Balodabazar, Bhatapara (CG).

---- Applicant

Versus

- State Of Chhattisgarh Through Excise Circle, Balodabazar, Distt. Balodabazar-Bhatapara (CG).

---- Respondent

For Applicant : Mr. A.S. Rajput, Advocate.
For Respondent/State : Mr. Aditya Sharma, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

6/7/2015

1. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail, who has been arrested on 15-6-2015 in connection with Crime No. 240 of 2015 registered at Police Station Excise Circle, Balodabazar, District Balodabazar- Bhatapara (CG) for the offence punishable under Sections 34 (2) of the Chhattisgarh Excise Act.

2. The case of the prosecution, in brief, is that the applicant was found in possession of 8.00 bulk liters of country made liquor without any authority of law.

3. Learned counsel appearing for the applicant would submit that the present has not committed any offence and he has been falsely implicated in the case, nothing has been seized from the possession of the applicant. He would further submit that charge-sheet has been filed and the applicant and is in jail since 15-6-2015, therefore, he may be released on bail.

4. On the other hand, learned counsel for the State opposes 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 8.00 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 15-6-2015, 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 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 the following conditions:

i) that the applicant shall furnish a specific undertaking that while on bail, he will not commit any excise 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 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