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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3796 of 2015

- Sunder Masih, son of John Vilium Isai, aged about 53 years, residents of Village Ganeshpur, Police Station Simga, Civil and Revenue District Baloda Bazar, Bhatapara (C.G.)

---- Applicant

Versus

- State Of Chhattisgarh Through Excise Police Station Simga, in the Revenue and Civil District Baloda Bazar-Bhatapara (C.G.)

---- Non-applicant

For Applicant: Mr. Janak Ram Verma, Advocate.
For Non-applicant: Mr. Vivek Singhal, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

17/08/2015

(1) Heard.

(2) This is an application filed under Section 439 of the Cr.P.C. for grant for regular bail to the applicant, who has been arrested in connection with Crime No. 83/2015 registered at Police Station Simga, Revenue and Civil District Baloda Bazar-Bhatapara for the offence punishable under Sections 34(2) & 59(A) of the Chhattisgarh Excise Act, 1915.

(2) Case of the prosecution, in brief, is that 07.00 bulk liters of illicit liquor was seized by the police from the present applicant.

(3) Learned counsel for the applicant submits that the applicant has falsely been implicated in the case, and therefore, the applicant 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 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 only 07.00 bulk liters of illicit 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 29.06.2015, case is triable by the Judicial Magistrate First Class, 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 that he has falsely been implicated in 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 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.

Certified copy, as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-