

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.No.5081 of 2015**

Onkar Sahu S/o Paras Ram Sahu, Aged about 34 years, Caste-Teli, R/o Village Kaundkera, Thana Rajim, Revenue District-Gariyaband, Civil District Raipur (CG)

---Applicant

Versus

State of Chhattisgarh Through Police Station-Rajim, District Gariyaband (CG)

---Non-applicant

For Applicant	:	Mr. K.K.Dewangan, Advocate
For Non-applicant	:	Mr. Vivek Shinghal, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board**18/09/2015**

1. This is second bail application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.136 of 2015, registered at Police Station-Rajim, District Raipur (CG), for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.

2. This is second bail application. First bail application of the applicant has been dismissed as withdrawn with liberty to repeat after disposal of criminal case relating to excise act.

3. Learned counsel for the applicant would submit that in the earlier case relating to excise act, the applicant has been acquitted vide order dated 3.9.2015 by the Judicial Magistrate First Class, Rajim passed in Criminal

Case No.414/2014.

4. Case of the prosecution, in brief, is that, 5.760 bulk liters of illicit liquor was seized by the police from the present applicant.

5. Learned counsel for the applicant submits that the applicant is in custody from 4.7.2015. He further submits that the applicant has falsely been implicated in the case, and therefore, he may be released on bail.

6. On the other hand, learned counsel for the State opposes the bail application.

7. I have heard counsel appearing for the parties and perused the case diary.

8. 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 5.760 bulk liters of illicit liquor has been seized from him which is more than prescribed limit of 5 bulk liters and he is in custody since 4.7.2015 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 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.

9. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed. It is directed that on his 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.

10. Certified copy as per rules.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-