

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7389 of 2015**

- Rahul Kumar, S/o late Narayan Das, aged about 21 years, R/o Village Kenadand, P.S. Kathghora, Distt. Korba (C.G.)

---- Petitioner**Versus**

- State of Chhattisgarh, Through Police Station/Excise Circle Bankimongra, District – Korba, Chhattisgarh

---- Respondent

For Applicant	:	Shri Rajesh Roshan Singh, Advocate.
For Respondent/State	:	Shri Satish Gupta, Government Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****18.01.2016**

1. This is 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.61/2015 registered at Police Station/Excise Circle – Bankimongra, District Korba, Chhattisgarh, for the offence punishable under Section 34 (1)(क), 34(2) and 59 (क) of the Excise Act.
2. As per the prosecution case, in brief, on raid being conducted, the applicant was found in possession of 10 box containing 90 liters of Alcohol and thereby committed the aforesaid offence. F.I.R. was registered against him and he has been arrested on 03.07.2015.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated. Two seizure witnesses, namely Parmeshwar and Bhupendra have turned hostile as they have not supported the prosecution story. Since the seizure was not made from the person of the applicant, therefore, the seizure

witnesses have not supported the prosecution story. He further submits that the applicant is in jail since 03.07.2015, therefore, in the facts and circumstances of the case, he may be enlarged on bail.

4. *Per contra*, learned State Counsel opposes the prayer for grant of bail.
5. I have heard learned counsel for the parties and perused the case diary.
6. Having regard to the fact that the seizure witnesses, namely Parmeshwar and Bhupendra have turned hostile, which is not disputed by the State Counsel also and further taking into account the fact the said seizure witnesses have not supported the prosecution case and the fact that the applicant is in jail since 03.07.2015, I am inclined to enlarge the applicant on bail.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
8. 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.
9. 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 cancelled 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.

Certified copy as per rules.

Sd/-
(GOUTAM BHADURI)
Judge