

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1645 of 2016**

Uttra Bai, wife of Shri Prem Sharma, aged about 45 years, R/o
Jawaharpara, Balod, Police Station Balod, District Balod (CG).

---- Applicant**Versus**

State of Chhattisgarh, through the Station House Officer, Police
Station Balod, District Balod (CG).

---- Non-applicant

For Applicant : Shri N.K. Chatterjee, Advocate
For Non-applicant : Shri Om Prakash Sahu, Govt. Advocate

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

14/03/2016**(1)** Heard.

(2) This is third 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.418/2015 registered at Police Station Balod, for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.

(3) Case of the prosecution, in brief, is that 5.580 bulk liters of illicit liquor was seized by the police from the present applicant.

(4) The first & second bail applications of the applicant were dismissed on merits with liberty to repeat the same after disposal of Criminal Case No.871/2015 by order of this Court dated 12.10.2015 passed in M.Cr.C. No.5411/2015 and order dated 14.12.2015 passed in M.Cr.C. No.7260/2015.

(5) Learned counsel appearing for the applicant submits that the Criminal Case No.871/2015 has been disposed off vide judgment dated 05.02.2016 and therefore, the applicant may be released on bail.

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

(7) I have heard the 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 5.580 bulk liters of liquor has been seized from him which is more than prescribed limit of 5 bulk liters, but looking to the fact that he is in custody from 06.09.2015 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 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 of his appearance as and when

directed, the applicant shall be released on bail, subject to following conditions:

1. 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.
2. 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.
3. 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

L/-