

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5255 of 2016

- Vishnu Yadav S/o Dilharan Yadav Aged About 27 Years R/o Village Bavali, Police Station Pathariya, District Mungeli, Chhattisgarh. ---
Applicant

Versus

- State of Chhattisgarh through the District Magistrate, Bilaspur, Chhattisgarh. --- **Respondent**

For the applicant	:	Mr. Uttam Pandey, Advocate
For the Respondent	:	Mr. Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

07.09.2016

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 25 of 2016 registered at P.S. Hirri, Distt. Bilaspur (C.G) for the offence punishable under Sections 34(1)(A)(2) & 59(A) of the Excise Act.
2. As per the prosecution case, on 09.02.2016 the applicant along-with other co-accused while carrying liquor in Vehicle Mazda bearing No. C.G. 10 R 0733 was intercepted near Hardi turning and 2700 bulk litres of liquor was seized and during interrogation the applicants could not produce any valid document, therefore, the offence is committed.
3. Learned counsel for the applicant submits that the applicant was Khalasi of the vehicle and the said liquor was lifted from Gatauri ware-house and excise duty was paid and it was meant to be taken to Rishda and instead of the route specified, the vehicle was diverted in short curt route and in that process they were intercepted and the liquor was seized.

It is submitted that no offence has been committed as liquor was duty paid and it belonged to an authorized licensee namely Bhuvaneshwar Kumar Kashyap, therefore, the applicant may be enlarged on bail. He further submits that similarly placed co-accused Krishna Satnami and Nanu Satnami have been enlarged on bail by this Court in M.Cr.C.No.3103/2016 on 04.07.2016 and being in parity with the case of co-accused, the present applicant may also be enlarged on bail.

4. Per contra, learned State Counsel opposes the bail. However, he do not dispute the fact that the liquor was duty paid and it belonged to Bhuvaneshwar Kumar Kashyap who is licensee from the Excise department, however, during the course of enquiry the accused could not produce any document. It is also not disputed that similarly placed co-accused have been enlarged on bail by this Court.
5. Considering the totality of the facts and circumstances of the case especially considering the fact that similarly placed co-accused have been enlarged on bail as stated above, I am inclined to release the present applicant also on bail.
6. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on his executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court. He shall also appear before the trial Court as and when directed by the said Court.

C.c. as per rules.

Sd/-

**GOUTAM BHADURI
JUDGE**