NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7321 of 2017

Laxminarayan, S/o- Shri Puniram Kaiwartya, aged about 50 years, R/o- Village Devraha, P.S. Bilaigarh, District – Baloda Bazar, Bhatapara, C.G.

---- Applicant

Versus

State of Chhattisgarh Through Station House Office, Police Station- Bilaigarh, District- Balodabazar, Bhatapara, C.G.

---- Non-applicant

For Applicant	:	None.
For Non-applicant/State	:	Mr. Prasoon Bhaduri, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

23/11/17

Heard.

(1) The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure for releasing him on regular bail during trial in connection with Crime No. 386/2017 registered at Police Station Bilaigarh, District- Balodabazar, Bhatapara, for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915 and Section 420 of the Indian Penal Code.

(2) Case of the prosecution, in brief, is that 7.12 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 been falsely implicated in the crime in question. He further submits that as the

applicant is in custody since 28.10.2017 and the trial is likely to take some time for its final disposal, he 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 7.12 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 the applicant is in custody since 28.10.2017, 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 with investigation / 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.

(8) Copy of this order be sent to the trial Court for information and needful action.

Certified copy, as per rules.

Sd/-

(Sanjay K. Agrawal)
Judge

Priyanka