

`NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.C.C. No. 89 of 2018**

The National Highway Authority of India, Through The Chief Engineer, Public Works Department National Road Area, Raipur, District Raipur (C.G.)

---- Petitioner**Versus**

1. Gendddlal, S/o Ganeshram Shrivastava, Aged about 46 years, R/o Village Chaple, Tehsil Kharsiya, District Raigarh (C.G.)
2. Union of India, The Secretary, Road Transport and National Highway, Mantralaya G-5-6 Sector 10, Dwarika New Delhi.
3. Additional Commissioner (Appointed by Central Government under Section 3-G(5) of National Highway Act, 1956), Bilaspur Division, District Bilaspur (C.G.)
4. The Collector Raigarh, District Raigarh, Chhattisgarh
5. Sub Division Officer, (Revenue)/ Land Acquisition Officer, Tehsil Kharsiya, District Raigarh, Chhattisgarh

---- Respondents

For Petitioner: Mrs. Ashtha Shukla, Advocate.
 For Respondent/State: Mr. B. Gopa Kumar, Dy. Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****15/02/2018**

- (1) Learned counsel appearing for the applicant would submit that with the passage of time, this M.C.C. has become infructuous.
- (2) Accordingly, the M.C.C. is dismissed as having become infructuous.

Sd/-

(Sanjay K. Agrawal)
 Judge

D/-

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. 82/2015 registered at Police Station Patewa, Distt. Mahasamund for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915.

(2) Case of the prosecution, in brief, is that 29.40 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 falsely been implicated in the case, and therefore, the applicant 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 29.40 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 it is first offence of the applicant and he is in custody from 05.06.2015, 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 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.

Certified copy, as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-

