

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 355 of 2018**

Yogesh Kumar Sahu, S/o Makhan Lal Sahu, Aged about 40 years, Sarpanch Village Panchayat Piprod, Janpad Panchayat Abhanpur, Tahsil Abhanpur, District Raipur (C.G.)

---- Petitioner**Versus**

1. State of Chhattisgarh, Through Secretary Panchayat, Department Secretariat, Naya Raipur (C.G.)
2. Collector, District Raipur (C.G.)
3. Sub Divisional Officer, Abhanpur, District Raipur (C.G.)
4. Sanjay Yadav, S/o Gokul Yadav, R/o Village Piprod, Janpad Panchayat Abhanpur, Tahsil Abhanpur, District Raipur (C.G.)

---- Respondents

For Petitioner: Mr. Rajeev Bharat, Advocate.
For Respondents/State: Mr. Ratan Pusty, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****08/02/2018**

Heard.

(1) Learned counsel for the petitioner would submit that show cause notice has been issued for petitioner's removal from the post of Sarpanch under Section 40 of the C.G. Panchayat Raj Adhiniyam, 1993 (for short "Adhiniyam, 1993") but no enquiry has not been conducted before issuing such show cause notice.

(2) Per contra, learned counsel for the State would submit that due enquiry will be done before passing the final order.

(3) I have heard learned counsel appearing for the parties.

(4) Be that as it may, the respondent No. 3- Sub Divisional Officer, Abhanpur, District Raipur is directed to conduct fulfilled enquiry as envisaged under proviso to Section 40 (1) of the C.G. Panchayat Raj Adhiniyam, 1993 against the petitioner and to proceed thereafter.

(5) With the aforesaid observations, the writ petition stands finally disposed of.

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/-

