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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4112 of 2018**

Madan Yadav S/o Shri Kamlesh Yadav, Aged About 24 Years R/o Village Sehda, P. S. Tatri, District Bhojpur, Bihar, At Present. R/o Village Gervani, P. S. Punjipathra, Tahsil And District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through S.H.O. Of The Chowki Jutemill. P. S. Kotwali, District Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri R.K. Pali, Advocate on behalf of Shri Abhishek Saraf, Advocate.
For the Respondent/State	:	Shri Adhiraj Surana, Dy. G.A.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****12.06.2018**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 preferred by the applicant before this Court and no other bail application is pending before any other Court.

2. Perused the case diary provided by the learned counsel for the State in connection with Crime No.616 of 2018, registered at Outpost Jutemill, Police Station Kotwali, District – Raigarh, Chhattisgarh for the offence punishable under Sections 34(2) and 59(A) of the Chhattisgarh Excise Act.

3. Case of the prosecution, in brief, is that on 28.5.2018 near about 9 pm, Head-Constable – Vijay Gopal, Outpost O.P. Jute Mill, Police Station Raigarh seized 9.900 litres of foreign liquor from applicant – Madan Yadav.

4. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in this case; therefore, he may be released on bail.

5. On the other hand, learned counsel for the State opposes the prayer for grant of bail, however, he would submit that as per the information received from the concerned SHO, the applicant has no previous antecedents of similar offence.

6. Looking to these circumstances and other facts of the case, looking to the fact that there is no likelihood of the accused to abscond and tamper the evidence, the trial will take its own time and the applicant is in jail since 28.5.2018, this Court is inclined to give benefit of Section 439 of the Cr.P.C to the present applicant.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that if the applicant furnishes one solvent surety for a sum of Rs.15,000/- alongwith a personal bond in the like sum to the satisfaction of the concerned Trial Court with the condition that he will appear before the trial Court at 11:00 am as and when directed till trial and will cooperate during the trial, he shall be released on bail.

9. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
Vacation Judge