

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5995 of 2018**

Suraj Singh, S/o Diwaker Singh, aged about 33 years, R/o Chandewara, Police Station Lalganj, Tahsil Lalganj Azamgarh, UP at present R/o Bhilai Camp 01 Near the Adarsh Nagar, Water Tank, Police Station Chhawani, District Durg (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Police Station Bodla, District Kabirdham (CG).

---- Non-applicant

For Applicant : Mr. Awadh Tripathi, Advocate

For Non-applicant : Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****04.09.2018**

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court.
2. Perused the copy of charge-sheet provided by the counsel for the applicant in connection with Crime No.138/2018 registered in Police Station Bodla, District Kabirdham for the offence punishable under Section 34 (2) of the Chhattisgarh Excise Act.
3. Case of the prosecution, in brief, is that on 02.08.2018 at about 1:40 pm, Pawan Patwa, A.S.I. of Police Station Bodla received an information from the informant that 04 persons are carrying foreign liquor in Grand I Ten Car bearing Registration No.CG/07BL/0527 and going to Kawardha for sale the said liquor. Pawan Patwa, A.S.I. after getting the information, he blocked the main road Bodla at near Bandhatola and he stopped the said vehicle. The accused/applicant and co-accused namely Ravi Shanker Patel, Vishal Tyagi and Sandeep Sahajeet were present in the said car. He seized 15 cartoons of foreign liquor i.e. 135 bulk liters from the said car.
4. Counsel for the applicant argued that the applicant and his friends

had gone to Bhoramdev and Ranidhara, when they were returning back, a Scorpio vehicle was found in turtle condition. Bottles of the foreign liquor were scattered on the land. Police Officer has falsely implicated the applicant and his friends in the present case. Offence is punishable only for two years. The applicant is a young man. Offence is triable by JMFC. In support of his case, he placed reliance upon decision of this Court passed on 18.04.2017 in M.Cr.C. No.2067/2017 (**Dharmjeet Singh & Ors. Vs. State of Chhattisgarh**), 17.08.2018 in M.Cr.C. No.5742/2018 (**Manraj Vs. State of Chhattisgarh**) & 17.08.2018 passed in M.Cr.C. No.5751/2018 (**Khaleel Shabeer Sheikh & Anr. Vs. State of Chhattisgarh**). He further relied upon the decision of the Supreme Court in the case of **Commissioner of Central Excise, Mumbai Vs. Mahindra and Mahindra Limited** reported in (2015) 13 SCC 441 and in the case of **Gammon India Limited Vs. Commissioner of Customs, Mumbai** reported in (2011) 12 SCC 499.

5. On the other hand, counsel for the State opposed the prayer for grant of bail.
6. I have heard counsel appearing for the parties and perused the case diary with utmost circumspection.
7. There is no legal principle has been laid down in the cases of **Dharmjeet Singh, Manraj & Khaleel Shabeer Sheikh** (supra). Thus, the applicant does not get any help from the aforesaid cases. Because no question arises about the conflict of the legal opinion or difference on legal issues. Thus, the applicant does not get any help for grant of bail from the decision rendered by the Supreme Court in the case of **Commissioner of Central Excise, Mumbai** (supra) and in the case of **Gammon India Limited** (supra).
8. Looking to the facts and circumstances of the case, looking to the alleged seized bottles of foreign liquor and looking to the seriousness of the offence and looking to the impact of granting bail to the applicant on society, this Court is not inclined to give benefit of Section 439 of the Cr.P.C. to the applicant.
9. Consequently, the bail application is rejected.
10. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE