

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3574 of 2019

Harichand Bharthi S/o Late Bhagan Bharthi Aged About 50 Years R/o Village Barahi, Police Station Takhatpur , District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Excise Circle Takhatpur , Police Station Takhatpur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Ravindra Sharma, Advocate
For State	:	Shri A.N. Bhakta, Dy. A.G.

S.B. Hon'ble Mrs. Justice Rajani Dubey

Order On Board

27/05/2019

Heard.

1. The 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.24/2019 registered at Police Station- Excise Circle Takhatpur, PS -Takhatpur, District -Bilaspur (CG) for the offence punishable under Section 34 (1) (a), 34 (2) and 59 (a) (1) (2) of the Excise Act.
2. It is the case of the prosecution that 10 bulk liters of illicit country made liquor was seized by the police from the custody of the applicant and thereby committed the offence.
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 15.5.2019 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 opposed the bail application.

5. 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 Vs. State of Chhattisgarh** (MCRC No.6846 of 2014, decided on 5.1.2015), if the facts of the present case are examined, it is apparent that only 10 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 15.5.2019, 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 been falsely implicated in the case, I am of the opinion that present is the fit case, in which, the applicant should be enlarged on regular bail.
6. Accordingly, the application is allowed. It is directed that on furnishing a personal bond in the sum of Rs.50,000/- 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:
- (i) 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.
 - (ii) 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.
 - (iii) 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/-
(Rajani Dubey)
Vacation Judge