

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 9707 of 2018

- Jagdish Dudhi S/o Sadavlaiya Dudhi Aged About 39 Years R/o Village Kottur, P. S. Tarlaguda District Beejapur Chhattisgarh, District : Bijapur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The P. S. Tarlaguda District Beejapur Chhattisgarh, District : Bijapur, Chhattisgarh

---- Non-applicant

For Applicant	: Shri P.K. Tulsyan, Advocate
For Non-applicant	: Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

14.01.2019

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no other bail application is pending before any other Court.
2. Case diary not produced. Counsel for the applicant produced photocopy of the charge sheet.
3. The applicant has been arrested in connection with crime No. 03/2018 registered at Police Station – Tarlaguda District Beejapur (C.G.) for the offence punishable under Sections 34(2) of the Indian Penal Code.
4. Case of the prosecution, in brief is that on 15.01.2018, 221.53 bulk litre foreign liquor has been seized from the possession of the applicant.
5. Learned counsel for the applicant submits that the applicant has no criminal background. He is innocent and has been falsely implicated in the present case, therefore, he shall be released on bail.
6. On the other hand, learned counsel for the State opposes the bail application.
7. As per the photocopy of the arrest memo of the applicant which is part of the charge sheet it has been mentioned that no antecedent has been reported against the applicant.
8. Counsel for the applicant further submitted that the alleged seizure witnesses have been turned hostile in the trial Court. He drew my attention on the certified copy of the statement of PW1 Laxmi Narayan and PW2 Washam Sudhakar.
9. Though seizure witnesses have turned hostile, but yet Investigating Officer is to be examined. Mere becoming hostile of the seizure witness is not a sufficient ground to release the applicant on bail.
10. Looking to these facts and circumstances of the case, Looking to these facts and circumstances of the case, looking to the huge quantity of the alleged seizure of foreign liquor, this Court is not inclined to give benefit of section 439 to the applicant.
11. Accordingly, the present bail application is rejected.
12. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
JUDGE