

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 687 of 2020**

Rupchand Puraina, son of Pilaram Puraina, aged about 35 years,
resident of village Seja, Police Station Arang, District Raipur (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through Police Station Excise Circle – Civil
Line Raipur, District Raipur

---- Non-applicant

For Applicant : Mr. Sumit Jhanwar, Advocate.
For Non-applicant/State : Mr. Vinod Tekam, Panel Lawyer.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****05/02/2020**

(1) The accused/applicant has preferred this *second* bail application under Section 439 of the Code of Criminal Procedure for releasing him on regular bail during trial in connection with Crime No. 38/2019 registered at Police Station – Excise Circle Civil Line, Raipur (C.G.) for the offence punishable under Section 34(2) of the CG Excise Act, 1915.

(2) The applicant's first bail application was dismissed on merits by order of this Court dated 05.11.2019 passed in M.Cr.C. No. 5325 of 2019.

(3) Case of the prosecution, in nutshell, is that on 31.07.2019, on the basis of information received from an informant, police personnels searched

and seized total 234 bulk liters of foreign liquor from the possession of the applicant and thereby committed the aforesaid offence.

(4) Learned counsel appearing for the applicant would submit that applicant has been falsely implicated in the crime in question as there is evidence on record to connect the applicant with the crime in question. He further submits that memorandum seizure witness to the incident has not supported the case of the prosecution and has turned hostile; applicant is languishing in jail since 31.07.2019; there is no criminal antecedents against the applicant and no further custodial interrogation is required and, therefore, the applicant is entitled to be released on bail.

(5) On the other hand, counsel for the State opposes the bail application.

(6) I have heard the counsel appearing for the parties and perused the case diary with utmost circumspection.

(7) 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 234 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 31.07.2019, memorandum seizure witness has not supported the case of the prosecution and has turned hostile, case is triable by the Judicial Magistrate First Class, trial is likely to take some more time, I am of the opinion that present is the fit case, in which, the

applicant should be enlarged on regular bail.

(8) 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. 1,00,000/- 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/-

(Rajani Dubey)
Judge

D/-

