

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 786 of 2020

- Murli Nishad S/o Shivprasad Nishad Aged About 38 Years
Resident Of Mohgaon, P.S. Pipariya, Tahsil Kawardha, District
Kabirdham, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, P.S.
Excise Circle Kawardha, Civil And Revenue District Kabirdham,
Chhattisgarh

---- Respondent

For Applicant : Shri Dashrath Kushwaha, Advocate
For Respondent/State : Shri Wasim Miyan, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

05/02/2020

The applicant has filed this application under Section 439 of the Code of Criminal Procedure for grant of regular bail as he is in custody in connection with Crime No. 114/2019 registered at police station Excise Circle, district Kawardha (Kabirdham) (CG) for the offence punishable under Section 34 (2) of the Excise Act.

As per prosecution case, on 13.12.2019, after receiving secret information, during patrolling, the police raided and seized 50 bulk litres of illicit country made mahua liquor in possession of the applicant.

Counsel for the applicant submits that the applicant is innocent

and has been falsely implicated in the crime in question. He submits that the applicant is in jail since 13.12.2019 and the trial may take some time for its disposal and therefore he be released on bail.

On the other hand, learned counsel for the State opposes the bail application.

Heard counsel for the parties.

Considering the totality of the facts and circumstances of the case, in particular the detention period of the applicant and the fact that as per condition laid down in Section 59-A(ii) of the CG Excise Act 1915 and also the principles of law laid in **Banti singh Vs. State of Chhattisgarh (MCRC No. 6846 of 2014)**, the applicant was found in possession of 50 bulk liters of illicit country made mahua liquor which is more than the prescribed limit of 5 bulk liters, but looking to the fact that the applicant is in custody since 13.12.2019, case is triable by Judicial Magistrate First Class, the trial is likely to take some more time and also looking to the gravity of the offence, I am inclined to release him on regular bail. Accordingly, his application filed under Section 439 of the Code of Criminal Procedure is allowed.

It is directed that in the event of the applicant's furnishing a personal bond of Rs. 50,000/- with one surety in the like sum to the satisfaction of the concerned court for his appearance before it as and when directed, he shall be released on bail subject to the following conditions:

I) That the applicant shall furnish a specific undertaking that while on bail, he/she will not commit any excise offence, otherwise bail granted to him/her shall be liable to be cancelled and shall co-operate

the prosecution during trial.

ii) that the accused/applicant shall make himself/herself 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.

Sd/-
(Rajani Dubey)
Judge