

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 662 of 2020

- Saurabh Das S/o Ravi Shankar Das Aged About 24 Years R/o Sector 6, Road No. 38, Quarter No. L/04, Police Station Sector 6, Bhilai, District Durg, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Dongargaon, District Rajnandgaon, Chhattisgarh.

---- Respondent

For Applicant	: Shri S.S.Baghel, Advocate
For Respondent/State	: Shri Anurag Verma, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

05/02/2020

The applicant has filed this second 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. 295/2019 registered at police station Dongargaon, district Rajnandgaon(CG) for the offence punishable under Section 34 (2) of the Excise Act.

The first bail application was dismissed as withdrawn with liberty to revive the same at the appropriate stage, vide order dated 13.11.2019 in M.Cr.C. No. 6947/2019.

As per prosecution case, on 07.10.2019, after receiving secret information, the police raided and seized 40 boxes of illicit foreign liquor (Goa Whiskey totalling to 3,49,000 ml.) from the vehicle of the

applicant and other co-accused.

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 08.10.19 and the trial may take some time for its disposal and therefore he be released on bail. He further submits that the seizure witnesses namely Mahendra Chouhan and Vipin Tiwari (PW-1 and 2) were examined and they have turned hostile.

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 40 boxes of illicit foreign liquor (Goa Whiskey totalling to 3,49,000 ml.) which is more than the prescribed limit of 5 bulk liters, but looking to the fact that the applicant is in custody since 08.10.19, the seizure and memorandum witnesses have not supported the prosecution case, the trial is likely to take some more time, 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. 1,00,000/- 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