

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1004 of 2020**

- Sudha Ram Chelak S/o Pancham Chelak, Aged About 52 Years R/o Khiloura, Police Station Bhatapara Gramin, District - Baloda Bazar - Bhatapara, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Excise Circle, Bhatapara, District-Baloda Bazar-Bhatapara, Chhattisgarh.

---- Respondent

For Applicant : Mr. Anil Gulati, Advocate.
For Respondent/State : Mr. Akhtar Hussain, PL.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****12/02/2020**

- The accused/applicant has moved 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. 21/2019 registered at Police Station - Excise Circle, Bhatapara, District - Baloda Bazar-Bhatapara (C.G.) for the offence punishable under Section 34(2) of the C.G. Excise Act.
- The first bail application of the applicant was dismissed by this Court on 17.12.2019 in MCRC No. 8118/2019.
- It is the case of the prosecution that, 54.00 bulk liters of illicit liquor was seized by the police from the custody of present applicant and thereby committed the offence.
- Learned counsel for the applicant submits that the applicant

has been falsely implicated in the crime in question. He further submits that both the seizure witnesses namely Rajkumar and Mohardas have been examined and they have not supported the prosecution case. The applicant is in custody since 27.11.2019 and the trial is likely to take some time for its final disposal, he may be released on bail.

- On the other hand, counsel for the State opposes the bail application.
- 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 54.00 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 both the seizure witnesses have been examined and they have not supported the prosecution case, applicant is in custody since 27.11.2019, 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 falsely been implicated in case, I am of the opinion that present is the fit case, in which, the applicant should be enlarged on regular bail.
- 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 will be released on bail, subject to following

conditions:

- That, the applicant will furnish a specific, undertaking that while on bail, he will not commit any excise offence, otherwise bail granted to him will be liable to be cancelled and shall co-operate the prosecution during trial.
- That, the accused/applicant will make himself available for interrogation before the concerned Investigating Officer as and when required and the accused/applicant will 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 will not act, in any manner, which will be prejudicial to fair and expeditious trial.

**Sd/-
(Rajani Dubey)
Judge**