

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1335 of 2020

- Veeru Nirmalkar S/o Late Shri Pardeshi Nirmalkar, Aged About 35 Years R/o Shyam Nagar, Kenal Road, Police Station Telibandha, Raipur, District - Raipur Chhattisgarh. I D No. - S T L 016247 Mo. No. - 62619-16526, District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Kotwali, Raipur, District - Raipur Chhattisgarh.

---- Respondent

For Applicant	: Shri C.R.Sahu, Advocate
For Respondent/State	: Shri B.L.Sahu, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

26/02/2020

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. 54/2020 registered at police station Kotwali, district Raipur (CG) for the offence punishable under Sections 34 (2) of the Excise Act.

As per prosecution case, on 31.01.2020, during patrolling, secret information was received by the police and on the basis of which the police conducted raid and seized 8 boxes of illicit *Goa Whisky special* totaling to 69.120 bulk litres, from the 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 31.01.2020 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 69.120 bulk liters of illicit Goa Whisky Special which is more than the prescribed limit of 5 bulk liters, but looking to the fact that the applicant is in custody since 31.01.2020, 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. 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