

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 2368 of 2020**

Prakash Chaterjee S/o Mohan Chaterjee, Aged About
22 Years R/o Ward No. 8, Pandariya, District-
Kabirdham, Chhattisgarh.

---Applicant

Versus

State Of Chhattisgarh Through- Station House
Officer, Excise Circle Pandariya, District-
Kabirdham, Chhattisgarh.

--- Non-applicant/State

For Applicant :- Mr. Dharmesh Shrivastava, Advocate
For State :- Mr. H.S. Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

05/05/2020

1. Mr. Dharmesh Shrivastava, learned counsel for the applicant, undertakes to comply the Chhattisgarh High Court Rules, 2007 as well as undertakes to file copy as required under the Guidelines for E-mail Filing and Virtual Hearing During Lockdown Period.
2. With the consent of the parties, the matter is heard finally.
3. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with

Crime No. 02/2020, registered at Police Station-Excise Circle – Pandariya, District Kabirdham (C.G.), for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.

4. Case of the prosecution, in brief, is that, 6 bulk liters of illicit liquor was seized by the police from the present applicant.
5. Learned counsel for the applicant submits that the applicant has not committed any offence and he has falsely been implicated in crime in question. He is in custody since 12/04/2020.
6. On the other hand, learned counsel for the State opposes the bail application.
7. I have heard learned counsel appearing for the parties and perused the case diary.
8. 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**¹, if the facts of present case are examined, it is apparent that there is no criminal antecedent of the present applicant and only 6 bulk liters of illicit liquor has been seized from him which is more than prescribed limit of 5 bulk

¹ 2015(2) C.G.L.J. 341

liters, but looking to the fact that it is the first offence of the applicant and he is in custody since 12/04/2020 and case is triable by the Judicial Magistrate First Class and 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.

9. 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.25,000/-** 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:

(i) 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.

(ii) 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.

(iii) That, the accused/applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial.

10. Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet