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HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Criminal Case No.2376 of 2020

Lakhan Kathlane, S/o Tulsi Kathlane, aged about 39 years, Occupation Laborer, R/o Kashiram Chowk, Oust Post Jute Mill and Police Station Kotwali, Tahsil and District Raigarh (C.G.) At present R/o Village Gerwani, PS Punjipathra, District Raigarh (C.G.)

(In Jail)
---- Applicant

Versus

State of Chhattisgarh, Through S.H.O. of the Police Station Punjipathra, District Raigarh (C.G.)

---- Non-applicant

For Applicant:	Mr. Abhishek Saraf, Advocate.
For Non-applicant:	Mr. Chandresh Shrivastava, Dy. Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

05/05/2020

1. With the consent of parties, the matter is heard finally.
2. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing him on regular bail during trial in connection with Crime No.69/2020, registered at Police Station Punjipathra, Distt. Raigarh, for the offence punishable under Sections 34(a)(2) and 59 (a) of the Chhattisgarh Excise Act, 1915.
3. Case of the prosecution, in brief, is that 10 bulk liters of illicit liquor was seized by the police from the present applicant.
4. Learned counsel for the applicant submits that this is the first bail application filed on behalf of the applicant for grant of regular bail, the applicant has not committed any offence, he has falsely been implicated in the case, he is in custody since 15-4-2020 and therefore, he may be released on bail.
5. On the other hand, learned counsel for the State opposes the bail application.

6. I have heard learned counsel appearing for the parties.

7. Taking into consideration the condition incorporated in Section 59-A(ii) of the Chhattisgarh Excise Act, 1915, and bearing in mind the principles of law laid down in the matter of **Banti Singh v. State of Chhattisgarh**[1], if the facts of the present case are examined, it is apparent that only 10 bulk liters of illicit liquor has been seized from the applicant which is more than the prescribed limit of 5 bulk liters, but looking to the fact that it is the first offence of the applicant and he is in custody from 15-4-2020, the case is triable by the Judicial Magistrate First Class, trial is likely to take some more time and further taking into account the nature and gravity of offence and the plea raised by the applicant that he has falsely been implicated in the case, I am of the opinion that present is a fit case in which the applicant should be enlarged on regular bail.

8. Accordingly, the bail application filed under Section 439 of the CrPC 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:

    1. 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.
    2. 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

1 2015(2) C.G.L.J. 341

officer.

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

Sd/-
(Sanjay K. Agrawal)
Judge

Soma