

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2607 of 2020**

- Dukalu Nishad, S/o Kashiram Nishad, Aged About 60 Years, R/o - Village Mahmara, Out Post - Anjora, P.S.- Pulgaon, Durg Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through The SHO, Out Post - Anjora, P.S.- Pulgaon, Durg, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Shashank Thakur Advocate.
For Respondent	:	Ms. Hamida Siddiqui, Dy. A.G.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****29/05/2020**

- Default as pointed out by the Registry is overruled.
- Heard on admission.
- Admit.
- The accused/applicant has moved this first bail application under Section 439 of the Code of Criminal Procedure for releasing him on regular bail during trial in connection with Crime No. 152/2020 registered at Police Station –Out Post - Anjora, P.S.- Pulgaon, Durg, (C.G.) for the offence punishable under Section 34 (2) of the C.G. Excise Act.
- It is the case of the prosecution that, on 19.04.2020 total 7000 bulk liters of illicit liquor has been seized by the police from the illegal possession of the applicant and thereby committed the offence and he has been arrested.

- Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. He further submits that as the applicant is in custody since 19.04.2020 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 and submits that as unauthorized liquor was seized from the possession of applicant and offence has been committed during the lock-down period, therefore, at this stage the bail application may be rejected.
- 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 7000 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 the applicant is in custody since 19.04.2020, 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.1,00,000/-, 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:

- That, the applicant shall furnish a specific, undertaking that while on bail, he shall not commit any excise offence, otherwise bail granted to him shall be liable to be cancelled and shall co-operate the prosecution during trial.
- 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.
- That, the accused/applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial.
- It is made clear that if the applicant has already been released on bail pursuant to the bail bonds already furnished in view of the order passed by the High Power committee constituted in compliance of the order of the Supreme Court of India dated 23.03.2020 in the matter of **In Re: Contagion of COVID 19 Virus in Prisons** (Suo Moto Writ Petition (c) No. 1/2020), he need not furnish bail bonds afresh and the bail bonds already furnished shall be deemed to be the bail bonds furnished in compliance of the order of this Court, but if he has not furnished the bail bonds earlier, then he will be required to furnish bail bonds within four weeks from today.
- Certified copy, as per rule.

Sd/-
(Rajani Dubey)
Judge

Ruchi