

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2764 of 2020

- Suraj Yadav S/o Late Dwarka Yadav Aged About 50 Years R/o Village Aamdani, Police Station And Tahsil Khairagarh, District Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Khairagarh, District Rajnandgaon, Chhattisgarh.

---- Respondent

For Applicant	: Shri Abhishek Sharma, Advocate
For Respondent /State	: Shri Dinesh Tiwari, Dy.GA

Hon'ble Smt. Justice Rajani Dubey

Order On Board

01/06/2020

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. 117/2020 registered at police station Khairagarh district Rajnandgaon (CG) for the offence punishable under Section 34 (2) of the CG Excise Act.

As per prosecution case, during patrolling, secret information was received by the police and thereafter they raided the spot and seized 6 bulk liters of country made liquor from the possession of the applicant.

Counsel for the applicant submits that the applicant is innocent and a false seizure has been made. He submits that the applicant is in

jail since 09.04.2020; charge sheet has been filed and the trial may take some time for its disposal and therefore he be released on bail by imposing appropriate condition.

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 6 bulk liters of illicit countrymade liquor which is more than the prescribed limit of 5 bulk liters, but looking to the fact that the applicant is in custody since 09.04.2020, 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. 50,000/- 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.

It is made clear that if the applicant has already been released on bail pursuant to the bail bonds already furnishing 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.

Sd/-

(Rajani Dubey)
Judge