

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.No.5612 of 2020**

Shivkumar Kushro, S/o Sattiram Kushro, Aged About 27 years, Caste Gond, Occupation agriculture, R/o Kesipara, Parsa, PS & Tehsil Udaipur, District Surguja (CG)

---Applicant

Versus

State of Chhattisgarh Through Station House Officer, Police Station Udaipur, District Surguja (CG)

---Non-applicant

For Applicant	:	Mr.Jitendra Shrivastava, Advocate
For Non-applicant	:	Mr.Ayaz Naved, Govt.Advocate

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

18/09/2020

1. Proceedings of this matter have been taken up through video conferencing.
2. 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.105 of 2020, registered at Police Station-Udaipur, District-Surguja (CG), for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.
3. Case of the prosecution, in brief, is that, 6.360 bulk liters of illicit liquor was seized by the police from the present applicant.
4. 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 8.8.2020.
5. On the other hand, learned counsel for the State opposes the bail

application.

6. I have heard counsel appearing for the parties and perused the case diary.
7. 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 the matter of **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 6.360 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 it is first offence of the applicant and he is in custody from 8.8.2020 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.
8. 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 ₹ 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:
 - That, the applicant shall furnish a specific undertaking that while on bail, he will not commit any excise

¹ 2015(2) C.G.L.J. 341

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.

9. 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 23.3.2020 in the matter of In **Re : Contagion of COVID 19 Virus in Prisons** (Suo Motu 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 bail bonds earlier, then he will be required to furnish bail bonds.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-