NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCRC No. 7124 of 2020

Vijay Soni, Aged about 40 years, S/o Pannalal Soni, By Caste Sonar, R/o Aamapara, Kanker, Tahsil and Distt. U.B. Kanker, Chhattisgarh.

---Applicant

Versus

State of Chhattisgarh, Through Police Station Kanker, Distt. U.B. Kanker, Chhattisgarh.

--- Non-applicant/State

For Applicant :- Ms. Bhavika Kotecha, Advocate
For State :- Mr. Ravi Bhagat, Dy. G.A.

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

04/11/2020

1. 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. 250/2020, registered at Police Station Kanker, District U.B. Kanker (C.G.), for the offence punishable under Section 34(2) of the Excise Act.

2. Case of the prosecution, in brief, is that, 7.200 bulk liters of illicit liquor was seized by the police from the present applicant.

3. Learned counsel for the applicant submits that the present applicant has not committed any offence and he has falsely been implicated in crime in question. He is in custody since 16/09/2020.

4. On the other hand, learned counsel for the State opposes the bail application.

5. I have heard learned counsel appearing for the parties and perused the case diary.

6. 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 7.200 bulk liters of illicit liquor has been seized from the applicant which is though more than the prescribed limit of 5 bulk litres but looking to the fact that it is the first offence of the applicant and he is in custody since 16/09/2020 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

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

present is the fit case, in which, the applicant should be enlarged on regular bail.

7. 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.

8. 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 the bail bonds.

9. Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet