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HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 7360 of 2020

Vijay Kumar Bhringraj, son of Mayalal Bhringraj, aged about 20 years, Resident of village Gourbahali, P.S. Singhoda, Tahsil Saraipali, District Mahasamund (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through : Station House Officer, Police Station Singhoda, District Mahasamund (C.G.)

---- Non-applicant

For Applicant : Mr. Yogeshwar Sharma, Advocate.
For Non-applicant / State : Mr. Jitendra Pali, Dy. Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

05/11/2020

(1) Proceedings of this matter have been taken-up for hearing through video conferencing.

(2) The accused/applicant has preferred this bail application under Section 439 of the Code of Criminal Procedure for releasing him on regular bail during trial in connection with Crime No. 75/2020 registered at Police Station – Singhoda, Civil and Revenue District Mahasamund (C.G.) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.

(3) Case of the prosecution, in brief, is that the applicant was found in possession of 20 bulk liters of illicit liquor unauthorizedly and without authority of law.

(4) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question as he has not committed any offence. He further submits that as the applicant has been arrested on 10.09.2020 and trial is likely to take some time for its final disposal, he may be released on bail.

(5) On the other hand, learned counsel for the State opposes the bail application.

(6) I have heard the 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 **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 20 bulk liters of illicit liquor has been seized from him which is more than prescribed limit, but looking to the fact that the applicant has been arrested on 10.09.2020, 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 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 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:

- 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.

- 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 23.03.2020 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.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-