

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1033 of 2021

- Mohar Sai Nishad, S/o Atmaram Nishad, Aged About 56 Years, Caste - Kenwat, R/o Village - Pandripani Katel, Police Station Basna, Tahsil Pithora, District Mahasamund Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh, Through: Police Station Basna, District Mahasamund, Chhattisgarh.

---- Non-applicant

For Applicant	:	Ms. Ankita Shrivastava, Advocate
For Non-applicant/State	:	Mr. Ajay Kumrani, Govt. Advocate

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

26.02.2021

- 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. 460/2020, registered at Police Station Basna, District- Mahasamund (C.G.), for the offence punishable under Section 34 (2) of the Chhattisgarh Excise Act.
- 2) Case of the prosecution, in brief, is that, 155.00 bulk liters of illicit liquor was seized by the police from the present applicant and other two accused persons.
- 3) 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 30/09/2020 and co-accused persons have already been granted bail vide order dated 06.11.2020 and 18.11.2020 in MCRC Nos.7302/2020 and 7366/2020 by the co-ordinate Bench of this Court and by this Court.
- 4) On the other hand, learned counsel for the State opposes the

bail application.

- 5) I have heard learned counsel appearing for the parties.
- 6) Taking into consideration the condition incorporated in Section 59A(ii) of the C.G. Excise Act, 1915, and bearing in mind the principles law laid down in **Banti Singh Vs. State of Chhattisgarh (2015(2) C.G.L.J. 341)**, if the facts of present case are examined, it is apparent that there is no criminal antecedents of the present applicant and only 155.000 bulk liters of illicit liquor has been seized from him and other accused persons which is more than prescribed limit of 5 bulk liters, but looking to the fact that it is the first offence of the applicant and he is in custody since 30/09/2020, the co-accused persons have already granted bail by the co-ordinate Bench of this Court and by this Court, 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 the case, I am of the opinion that 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. 50,000/-** 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 cooperate the prosecution during trial.
 - ii. That, the accused/applicant shall make himself available before the trial Court as and when required.
 - iii. That, the accused/applicant shall not act, in any manner,

which will be prejudicial to fair and expeditious trial.

Certified copy as per rules.

-Sd/-

(Gautam Chourdiya)
Judge

Nadim