

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.No.1465 of 2021**

Udayram S/o. Shri Bhikuram, aged about 34 years, R/o Village-Amruda, Thana – Khallari, Tahsil & Distt.-Mahasamund (CG)

---Applicant

Versus

State of Chhattisgarh Through the Station House Officer, Police Station-Khallari, Distt.-Mahasamund (CG)

---Non-applicant

For Applicant	:	Mr.Sunil Sahu, Advocate
For Non-applicant	:	Mr.Animesh Tiwari, Dy.A.G.

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

19/03/2021

- 1.** This is second bail application 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.124 of 2020, registered at Police Station-Khallari, District-Mahasamund (CG), for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.
- 2.** First bail application of the applicant has been dismissed by this Court on 17.8.2020 in M.Cr.C.No.3912 of 2020.
- 3.** Case of the prosecution, in brief, is that, 198 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 13.6.2020. Charge-sheet has been filed and trial is likely to take time and even for

first offender, punishment prescribed under Section 34(2) of the Excise Act is only one year and he is in jail for more than 9 months and no useful purpose would be served by keeping him in jail.

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 198 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 jail for more than 9 months, charge-sheet has been filed and trial is likely to take time and considering the punishment prescribed in Section 34(2) of the Excise Act and the fact that other co-accused have been released on bail, I am of the opinion that present is the fit case, in which, the applicant should be enlarged on regular bail.
8. Accordingly, the second 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

¹ 2015(2) C.G.L.J. 341

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.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-