

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 2300 of 2021**

- Shivnarayan Rathore, S/o Krishna Rathore, Aged About 61 Years, R/o Village Saragaon, Police Station Saragaon, District Janjgir Champa Chhattisgarh. **---- Applicant**

**Versus**

- State of Chhattisgarh, Through: Station House Officer, Police Station Saragaon, District Janjgir-Champa, Chhattisgarh.

**---- Non-Applicant**

---

|                         |   |                               |
|-------------------------|---|-------------------------------|
| For Applicant           | : | Shri Aditya Sharma, Advocate  |
| For Non-Applicant/State | : | Dr. (Ms.) Veena Nair, Dy.A.G. |

---

**Hon'ble Justice Shri Gautam Chourdiya**

**Order on Board**

**25.03.2021**

- 1) Heard on admission.
- 2) The application is admitted for hearing.
- 3) With the consent of the parties, the matter is heard finally.
- 4) The applicant has preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 25.02.2021 in connection with Crime No.33/2021 registered at Police Station Saragaon, District- Janjgir-Champa (C.G.) for the offence punishable under Section 34 (2) of C.G. Excise Act.
- 5) Allegation against the applicant alongwith co-accused person transporting countrymade liquor for the purpose of selling near the canal, infront of B.D.M. School thereafter, police recovered 7.200 bulk liters liquor from the possession of the co-accused namely Manoj and motorcycle from the present applicant.
- 6) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question, he further

submits that the from the possession of the present applicant liquor was not seized, the applicant has only one criminal antecedent of similar nature of offence, there is no likelihood of the applicant tampering with the prosecution evidence or absconding, he is in jail since 25.02.2021 and trial is likely to take some time for its final disposal. Therefore, the applicant be released on bail by this Court.

- 7) On the other hand, learned counsel for the Non-Applicant/State opposes the bail application and submits that the applicant has as many as five criminal antecedents in connection with Crime Nos. 102/1997, 308/2007, 110/2009, 114/2017 and 32/2017. However, the present applicant has only one offence under Excise Act registered in the year of 2017.
- 8) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, the manner in which the liquor was seized from the applicant, considering the quantity of illicit liquor, the detention period of the applicant, who is 61 years old, the fact that the applicant has only one criminal antecedent of Excise Act, only motorcycle was seized from the present applicant, there is no likelihood of the applicant tampering with the prosecution evidence or absconding as admitted by both the counsels and conclusion of trial may take some time, without commenting anything on merits of the case, the application is allowed.
- 9) It is directed that in the event of the applicant executing a personal bond for a sum of Rs.1,00,000/- with two sureties of Rs. 50,000/- each to the satisfaction of the concerned Trial Court, he shall be released on bail, on following conditions :-
  - (a) he 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 from disclosing such fact to the Court.
  - (b) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and

(c) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

(d) he shall not involve himself in any offence of similar nature in future or else this order granting bail to the applicant shall automatically stand cancelled without further reference to the Bench.

Let a copy of this order be forwarded to the concerned police station forthwith who shall inform the trial Court in the event of applicant involving himself in similar offence in future.

Sd/-

**(Gautam Chourdiya)**  
**Judge**

Nadim