

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.2990 of 2021

- Dinesh Kumar Chandra, S/o Reshamlal Chandra, Aged About 30 Years, R/o Village Chorbhatthi, Police Station and Tahsil Jaijaipur, District Janjgir Champa, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station Jaijaipur, Civil and Revenue District Janjgir Champa, Chhattisgarh

---- Respondent

For Applicant
For Respondent

Mr. T. K. Chandra, Advocate
Ms. Veena Nair, Dy. AG

Hon'ble Justice Shri Sanjay K. Agrawal

Order On Board

04/06/2021

1. Proceedings of this matter have been taken up through Video Conferencing.
2. Heard.
3. Admit.
4. Issue notice to the respondent.
5. Learned State counsel accepts notice for the respondent.

6. On being enquired, it is informed that the case diary is available, therefore, the matter is taken up for final hearing.
7. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.55/2021, registered at Police Station Jaijaipur, District Janjgir-Champa (CG), for the offence punishable under Section 34 (2) of the Excise Act.
8. The case of the prosecution, in brief, is that 20 liters of illicit liquor was seized by the Police from the present applicant.
9. 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 03.05.2021, therefore, he may be released on bail.
10. On the other hand, learned State counsel opposes the bail application.
11. I have heard learned counsel appearing for the parties and perused the case diary.

12. 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 only 20 bulk liters of illicit liquor has been seized from him, which is more than the prescribed limit of 5 bulk liters, but looking to the fact that it is first offence of the applicant and he is in custody since 03.05.2021 and the 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 present is a fit case, in which the applicant should be enlarged on regular bail.

13. 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

¹ 2015(2) C.G.L.J. 341

the sum of ₹ 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.

Sd/-

Sanjay K. Agrawal
Vacation Judge