

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5314 of 2021

- Kailash Pal, S/o Gajadhar Pal, Aged About 45 Years, R/o Street No. - 32, Quarter No. 5-N, Sector-6, Bhilai, District- Durg, Chhattisgarh. **---- Applicant**

Versus

- State of Chhattisgarh, Through - District Magistrate, District - Durg, Chhattisgarh. **---- Non-Applicant**

For Applicant : Shri Anmol Sharma, Advocate

For Non-Applicant/State : Shri Rahim Ubwami, Panel Lawyer

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

09.09.2021

Heard.

- 1) The applicant has preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 30.06.2021 in connection with Crime No. 145/2021, registered at Police Station- Nandani, District- Durg (C.G.) for the offence punishable under Section 34 (2) of C.G. Excise Act & Section 3 of Epidemic Disease Act.
- 2) Case of the prosecution, in brief, is that upon receiving secret information from the informant, on 20.04.2021 police party intercepted one Innova vehicle bearing registration number CG-07-AK-8106. However, due to darkness the present applicant alongwith other co-accused persons escaped from that place. Thereafter, the police party searched the said vehicle and seized 224.640 bulk litre liquor from it. During investigation, the accused persons were arrested.
- 3) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. He further

submits that similarly situated co-accused Manish Kumar Lehre has already been granted bail by this Court vide order dated 11.08.2021 in MCRC No. 5885 of 2021 the applicant has no criminal antecedents, there is no likelihood of his tampering with the prosecution evidence or absconding. The applicant is in jail since 30.06.2021 and due to COVID-19 trial is likely to take some time for disposal. Therefore, the applicant be released on bail by this Court.

- 4) On the other hand, learned counsel for the Non-Applicant/State opposes the bail application. He submits that the applicant is habitual offender and he has number of criminal antecedents but as per copy of the judgments filed with covering memo by the applicant's counsel, the applicant has been acquitted in those cases.
- 5) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, the nature of allegation made against the present applicant, number of criminal antecedents have been shown by the State counsel but as per copy of the judgments filed with covering memo by the applicant's counsel, the applicant has been acquitted in those cases, looking to the fact that similarly situated co-accused Manish Kumar Lehre has already been granted bail by this Court, no seizure was made from the applicant, the detention period of the applicant, who is 45 years old, the fact that applicant has no criminal antecedents of similar offence, there is no likelihood of the applicant tampering with the prosecution evidence or absconding as admitted by both the counsel and due to COVID-19 conclusion of trial may take some time, without commenting anything on merits of the case, the application is allowed.
- 6) It is directed that in the event of the applicant executing a personal bond for a sum of Rs.2,00,000/- with two sureties of Rs. 1,00,000/- each to the satisfaction of the concerned Trial Court,

he shall be released on bail, on following conditions :-

(i) 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,

(ii) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and

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

(iv) he shall strictly follow the COVID-19 protocol issued by the Central Government/State Government/Local Authority,

(v) he shall not involve himself in any offence of similar nature in future.

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