

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7572 of 2021**

- Kamal Kalet, S/o Laxman, aged about 32 Years, R/o Village Baitari, Post Chattigirola, Police Station and Tahsil Saraipali, District- Mahasamund (Chhattisgarh).

----Applicant

Versus

- State of Chhattisgarh, Through- Station House Officer, Outpost Baloda, Police of Police Station Sarapali, District- Mahasamund (Chhattisgarh).

---- Non-applicant

For Applicant	Mr. Anil Gulati, Advocate.
For State	Dr. (Ms.) Veena Nair, Deputy A.G.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

28/09/2021

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 Cr.P.C. as he has been arrested in connection with Crime No.282/2021 registered at Police Station- Outpost Baloda, P.S. Saraipali, District Mahasamund, C.G. for the offence punishable under Section 34(2) of the C.G. Excise Act.
5. Allegation against the applicant is that he was found in illegal possession of 80 bulk litres of hand made liquor (*Mahuwa*).

6. Learned counsel for the applicant submits that the applicant has been falsely implicated in this crime. He submits that applicant was arrested on 15.07.2021, charge sheet has already been filed, conclusion of trial is likely to take some time and that co-accused person namely- Vasudev @ Akhilesh in this case has already been granted regular bail by this Court vide order dated 12.08.2021 in MCRC No.5372 of 2021 and, therefore, the applicant be released on bail on the ground of parity.
7. On the other hand, learned counsel for the State opposes the bail application. However, she submits that the applicant has two criminal antecedents bearing Crime No.204/2010 for the offence under Sections 363, 366 & 376 of Indian Penal Code & Crime No.321/2019 for the offence under Section 34(1) of the Excise Act.

At this stage, learned counsel for the applicant clarifies that the applicant has been granted bail by the Court below vide order dated 03.01.2020 passed in Criminal Case No.07/2020 in relation to Crime No.321/2019 and has been acquitted by the Court below in relation to offence under Sections 363, 366 & 376 of Indian Penal Code vide order dated 08.04.2021 passed in Criminal Case No.309/2010 (Crime No.204/2010). Copy of the aforesaid orders has been filed along with the covering memo.

8. Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, considering the quantity of illicit liquor, the detention period of the applicant, who is 32 years old, the fact that though the applicant has two criminal antecedents but in one of them i.e. Crime No.204/2010 he has been acquitted by the Court below and in Crime No.321/2019 he has been granted bail by the

Court below, the fact that co-accused person namely- Vasudev @ Akhilesh in this case has already been granted regular bail by this Court and there is no likelihood of the applicant tampering with the evidence or absconding as admitted by both the counsel and conclusion of trial may take some time, the application is allowed. It is directed that in the event of 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 the 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 any offence in future.

Sd/-
Gautam Chourdiya
Judge