

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRC No. 8736 of 2021**

- Ramnath Bharti S/o Late Sureet Ram Bharti aged about 38 Years
R/o Jhumka, P.S. Sarsiwa, District Baloda Bazar-Bhatapara
Chhattisgarh

-----Applicant**VERSUS**

- State of Chhattisgarh through: Police Station Sarsiwa, District
Baloda Bazar-Bhatapara Chhattisgarh

-----Non-applicant

For Applicant	: Ms. Supriya Upasane, Advocate
For Non-applicant/State	: Ms. Seema Dixit, Panel Lawyer

Single Bench: Hon'ble Shri Parth Prateem Sahu, Judge**ORDER****15/12/2021**

1. Applicant has filed this application under Section 439 of CrPC for grant of regular bail as he has been arrested in connection with Crime No. 286/2021 registered at Police Station Sarsiwa, District Baloda Bazar- Bhatapara (C.G.) for the offence punishable under Section 34(2) of Chhattisgarh Excise Act.
2. Case of prosecution is, that police of police station Sarsiwa received secret information that applicant is in illegal possession of liquor. Based on the information, police reached the house of applicant, during course of search, seized 60 bulk liters of hand made (*mahua*) liquor from kitchen-garden (*Baadi*) of house of applicant. Based upon the seizure of illegal liquor aforementioned crime is registered against applicant and he was arrested on 27.10.2021.
3. Ms. Supriya Upasane, learned counsel for the applicant would submit that applicant has been falsely implicated in the crime, he has not committed any offence as alleged against him. Seizure of alleged liquor was from an open place assessable to all, thus, it cannot be said that applicant was in conscious possession of liquor. He is in jail since 27.10.2021. Offence is triable by Magistrate which may take some time, hence, he may be

released on bail.

4. Ms. Seema Dixit, learned State counsel, while opposing the submissions made by the learned counsel for the applicant, would submit that alleged liquor is seized from kitchen-garden (*baadi*) of house of applicant, hence, applicant was in conscious possession of illicit liquor. However, upon putting specific query with regard to any criminal antecedents against applicant, upon going through case diary, she submits that there are two criminal antecedents against applicant of similar nature which are of the year 2018 and 2019.
5. I have heard learned counsel for the parties.
6. Taking into consideration, nature of allegations, facts and circumstances of the case, place from where the alleged liquor stated to have been seized, detention period of applicant, offence to be triable by Magistrate, without commenting anything on merits, I am inclined to allow the bail application.
7. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail, upon furnishing a bail bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the Court on the conditions that-
 - a) Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
 - b) The applicant shall not, in any manner, tamper with the prosecution witnesses.
 - c) If the applicant is found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
 Judge