

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 9093 of 2021

Mordhwaj Sahu S/o Late Shri Ghanshyam Sahu, Aged About 25 Years,
 Resident of Village Singhola, O.P. Excise Suragi, Tahsil and District
 Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through Station House Officer, Police Station Excise
 Circle Rajnandgaon, District Rajnandgaon, Chhattisgarh.

--- Respondent

For Applicant	:	Mr. SS Baghel, Advocate.
For State	:	Mr. Shrikant Kaushik, PL.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

16/12/2021

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to applicant, who has been arrested in connection with Crime No.39/2021, registered at Excise Circle Rajnandgaon, District Rajnandgaon, (C.G.), for commission of offence punishable under Sections 34(2) of CG Excise Act.
2. Case of prosecution is that on 27.10.2021 official of Excise Department upon receiving secret information reached near Dhan Mandi Channel, during search, seized total 198.00 bulk litres of foreign liquor from applicant. Based on seizure of liquor, aforementioned crime was registered against applicant and he was arrested from spot.
3. Learned counsel for applicant submits that applicant has been falsely implicated in this case. Alleged seizure of liquor was not from conscious possession of applicant but from open place. Applicant went on spot to answer nature call and at that time he was arrested by Police. There is no other criminal antecedent against applicant of similar nature in recent past. Offence is triable by Magistrate, conclusion of trial may take some time. Hence, applicant may be released on bail.

4. Learned State Counsel opposes the submissions of learned counsel for applicant and submits that during course of search, total 198.00 bulk litres of foreign liquor was seized from applicant, hence, he is not entitled for grant of regular bail. However on putting specific query to State Counsel with regard to any criminal antecedent against applicant, he after going through case diary submits that in case diary there is no mention of any criminal antecedent against applicant of similar nature in recent past, but for one case under IPC of the year 2016.
5. Heard learned counsel for the parties.
6. Considering the entire facts and circumstances of the case, nature of allegation, place of seizure which is an open place, the fact that there is no criminal antecedent against applicant of similar nature in recent past, offence to be triable by Judicial Magistrate, without commenting anything on merits of the case, I am inclined to allow this application.
7. Accordingly, bail application is allowed. It is directed that applicant shall be released on regular bail, on his furnishing a bail bond in 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 Trial Court regularly on each and every date, unless exempted from appearance.
 - b) He shall not, in any manner, tamper with the prosecution witnesses.
 - c) If he 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

Jamal/-