

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 9331 of 2021

Rafiq @ Mamu S/o Late Shri Aziz Khan, Aged About 51 Years, R/o Village Narayangarh, Tehsil Dongargarh, District Rajnandgaon Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through The Station House Officer, Out Post Chichola, Police Station Chhuriya, District Rajnandgaon Chhattisgarh.

--- Respondent

For Applicant	:	Mr. SS Baghel, Advocate.
For State	:	Mr. Sudhir Sahu, PL.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

16/12/2021

1. Learned counsel for applicant submits that first bail application of applicant was dismissed as withdrawn on 29.10.2021 with liberty to revive the same at appropriate state. There is change of circumstances as seizure witnesses were examined before the Trial Court and they turned hostile.
2. This is second 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.177/2021, registered at Police Station -Out Post Chichola, Police Station Chhuriya, District Rajnandgaon, (C.G.), for commission of offence punishable under Sections 34 (2) of CG Excise Act.
3. Case of prosecution is that on 17.07.2021 Police upon receiving secret information that applicant is in illegal possession of liquor in his house, reached to house of applicant, during search, seized 32.940 bulk litres of country liquor from Kitchen Garden (बाड़ी) of applicant. Based on seizure of liquor, aforementioned crime was registered against applicant and he was arrested.
4. Learned counsel for applicant submits that applicant has been falsely implicated in this case. After withdrawal of first bail application, seizure witnesses have been examined before Trial Court on 09.11.2021, they have not

supported the case of prosecution, copy of deposition sheet is placed on record as Annexure A/3. Offence is triable by Magistrate and trial may take some time for its conclusion. Hence, applicant may be released on bail.

5. Learned State Counsel opposes the submissions of learned counsel for applicant and submits that first bail application of applicant was dismissed considering the place of seizure of illicit liquor ie from Kitchen Garden (बाड़ी) of applicant. However he does not dispute the submission of learned counsel for applicant based on Annexure A/3.
6. Heard learned counsel for the parties.
7. Considering the entire facts and circumstances of the case, nature of allegation, submissions of learned counsel for applicant that seizure witnesses turned hostile and not supported the case of prosecution, period of pre-trial detention of applicant since 17.07.2021, offence to be triable by Magistrate, without commenting anything on merits of the case, I am inclined to allow this second application.
8. Accordingly, second 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/-