

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 9375 of 2021

Heeraman Majumdar S/o Late Shri Nepal Majumdar, Aged About 36 Years, R/o Village Chhotebethiya, Thana Chhotebethiya, District North Baster Kanker Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through Excise Officer Excise Circle Pakhanjur, District North Baster Kanker, C.G.

--- Respondent

For Applicant	:	Mr. Sumit Shrivastava, Advocate.
For State	:	Mr. BL Sahu, PL.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

17/12/2021

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.11/2021, registered at Excise Circle Pakhanjur, District North Baster Kanker, (CG), for commission of offence punishable under Sections 34(2), 59-A of CG Excise Act.
2. Case of prosecution is that official of Excise Department upon receiving secret information that applicant is in illegal possession of liquor in his house, reached to house of applicant, during search, seized 23.00 bulk litres of country liquor from house of applicant. Based on seizure of liquor, aforementioned crime was registered against applicant and he was arrested.
3. Learned counsel for applicant submits that applicant has been falsely implicated in this case. Other members are also residing in house, hence it cannot be said that applicant was in exclusive and conscious possession of illicit liquor. There is no other criminal antecedent against applicant of commission of offence under Section 34 of Excise Act. Offence is triable by Magistrate and trial may take some time for its conclusion. Hence, applicant may be released on bail.
4. Learned State Counsel opposes the submissions of learned counsel for applicant and submits that during search, 23.00 bulk litres of country liquor was

seized from applicant, hence, he is not entitled for grant of regular bail. However on putting specific query with regard to any criminal antecedent against applicants, after going through case diary, he submits that in case diary there is mention of offence against applicant under preventive nature, 36 (c) of Excise Act of the year 2016.

5. Heard learned counsel for the parties.
6. Considering the entire facts and circumstances of the case, nature of allegation, submissions of learned counsel for parties, the fact that no other criminal antecedent is mentioned 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 concerned 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/-