

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

**MCRC No. 9495 of 2021**

Lomesh Kumar Chouhan **Versus** State of Chhattisgarh

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| 01.12.2021 | <p>Mr. Sunil Sahu, Advocate for applicant.</p> <p>Mr. B.P. Banjare, Dy. Government Advocate for the State.</p> <p>Heard.</p> <p>Admit.</p> <p>Learned State counsel submits that the case diary is available today.</p> <p>With the consent of parties, matter is heard finally.</p> <p>Order dictated and signed separately.</p> <p><b>Sd/-</b><br/><b>(Parth Prateem Sahu)</b><br/>Judge</p> |
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**HIGH COURT of CHHATTISGARH, BILASPUR**

**MCRC No. 9495 of 2021**

- Lomesh Kumar Chouhan S/o Shri Pila Babu Chouhan aged about 28 Years R/o Village Rewa, Thana and Tahsil Bagbahra, District Mahasamund Chhattisgarh

**-----Applicant**

**VERSUS**

- State of Chhattisgarh through: SHO, Police Station Bagbahra, District Mahasamund, Chhattisgarh

**-----Non-applicant**

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| For Applicant           | : Mr. Sunil Sahu, Advocate         |
| For Non-applicant/State | : Mr. B.P. Banjare, Dy. Govt. Adv. |

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**Hon'ble Shri Parth Prateem Sahu, Judge**

**ORDER**

**01/12/2021**

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. 264/2021 registered at Police Station Bagbahra, District Mahasamund (C.G.) for offence punishable under Section 34(2) of Chhattisgarh Excise Act.
2. Case of prosecution is, that on 13.11.2021, police received secret information that applicant is in illegal possession of illicit liquor. Based on the information, police reached on spot, during course of search, recovered total 79 pouches of liquor manufactured at Orisa State from the possession of applicant. Based upon the seizure of liquor aforementioned crime is registered against applicant and he was arrested.
3. Ms. Sunil Sahu, learned counsel for the applicant would submit that applicant has been falsely implicated in the crime. Applicant was not in exclusive possession of liquor as the place from where the liquor was seized is an open place accessible to all. Learned counsel further submits that applicant is in jail since 13.11.2021. Offence is triable by Magistrate which may take some time, hence, he may be released on bail.

4. Mr. B.P. Banjare, learned State counsel, while opposing the submissions made by the learned counsel for the applicant, would submit that liquor was seized from the exclusive possession of applicant, hence, he is not entitled for grant of bail. However, upon putting specific query with regard to any criminal antecedents against applicant, upon going through case diary, he submits that there is another criminal antecedent of similar nature against applicant of the year 2019, registered at police station Baghbahra.
5. I have heard learned counsel for the parties.
6. Taking into consideration, nature of allegations, facts and circumstances of the case, quantity of liquor alleged to have been seized, 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 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