

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 9663 of 2021

1. Vishal Tyagi S/o Late Lokesh Tyagi, Aged About 28 Years, R/o Mahatma Gandhi Nagar, Power House, Camp-2, Bhilai, Tahsil And District- Durg (C.G.).

---- Applicant

Versus

1. State Of Chhattisgarh, Through Station House Officer, Police Station Jamul, District Durg (C.G.).

---- Non-Applicant

For Applicant	:	Mr. Pushpendra Kumar Patel, Advocate.
For Non-Applicant/State	:	Dr. (Ms.) Veena Nair, Dy. Advocate General.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

07/12/2021

- 1) Heard on admission.
- 2) The application is admitted for hearing.
- 3) With the consent of the parties, the matter is heard finally.
- 4) This is the **Second Bail Application** filed by the applicant under Section 439 of Code of Criminal Procedure, 1973 for grant of bail. First Bail Application i.e. MCRC No. 6913/2021 was dismissed as withdrawn vide order dated 27/10/2021.
- 5) The applicant is in jail since 01/09/2021 in connection with Crime No. 153/2021 registered at Police Station Jamul, District Durg (C.G.) for the offence under Section 34(2) of Chhattisgarh Excise Act.
- 6) Allegation against the applicant is that he alongwith co-accused was found in illegal joint possession of **129.600 bulk** Ltrs. of foreign liquor.
- 7) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. He further submits that the

applicant has been arrested on 01/09/2021. He submits that the co-accused Sitasharan Kumhar has already been granted regular bail by this Court in MCRC No. 5327/2021 vide order dated 16/08/2021. He submits charge sheet has already been filed, there is no apprehension of the applicant tampering with the evidence or absconding and trial is likely to take some time for its disposal. Therefore, the applicant be released on bail by this Court.

- 8) On the other hand, learned counsel for the State opposes the bail application. However, she submits that the applicant has **01 criminal antecedent** bearing Crime No. 35/2019 under Section 34(2) of the CG. Excise Act of the year 2019.
- 9) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, the detention period of the applicant who is 28 years old, there is no apprehension of the applicant tampering with the evidence or absconding as admitted by both the Counsel, charge sheet has already been filed, offence is triable by Magistrate, in particular the fact that co-accused Sitasharan Kumhar has already been released on bail by this Court and that conclusion of trial may take some time, the application is **allowed**. It is directed that in the event of the applicant executing a personal **bond** for a sum of **Rs. 2,00,000/-** with two sureties of Rs. 1,00,000/- each to the satisfaction of the concerned Trial Court, he shall be released on bail on the following conditions:-
 - i. he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court,
 - ii. he shall not act in any manner which will be prejudicial to fair and expeditious trial,
 - iii. he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial,
 - iv. he shall strictly follow the COVID-19 protocol issued by the Central Govt./State Govt./Local Authority,

- v. he shall not involve himself in any offence of similar nature in future.

Let a copy of this order be forwarded to the concerned Police Station forthwith who shall inform the trial Court in the event of applicant involving himself in similar offence in future.

**-Sd/-
(Gautam Chourdiya)
Judge**

Chandrakant