

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1854 of 2024**

- Heeralal @ Bauna Khadiya S/o Premlal Khadiya Aged About 40 Years R/o Village Rampagula, Police Station Sarangarh, District : Sarangarh-Bilaigarh, Chhattisgarh

---- Applicant**Versus**

- State of Chhattisgarh Through Collector, District : Sarangarh-Bilaigarh, Chhattisgarh

---- Non-applicant

For Applicant : Mr. Udho Ram Koshaley, Advocate.

For Non-applicant/State : Mr. Rishabh Bisen, Panel Lawyer

Hon'ble Shri Justice Narendra Kumar Vyas**Order On Board****28.03.2024**

1. The applicant has preferred this First Bail Application under Section 439 of Cr.P.C. for grant of regular bail, as he has been arrested in connection with Crime No. 662/2023, registered at Police Station Sarangarh, District – Sarangarh-Bilaigarh (C.G.) for the offence punishable under Sections 34(2) and 59 (A) of the C.G. Excise Act.
2. The case of the prosecution, is that the Police of Police Station Sarangarh, District – Sarangarh-Bilaigarh (C.G.) has received a secret information through the informant that the unknown persons were transporting with illegal liquor to sale and on the basis of the said information, the Police has seized a total of 120 liters of country made Mahua liquor from the possession of the present applicant. Thereafter,

the applicant has been arrested by the Police and the offence was registered.

3. It is argued by the learned counsel for the applicant that the applicant is innocent and has been falsely implicated in this case and there is no criminal antecedents against the present applicant. It is further submitted that the charge-sheet has been filed in this case. He further submits that under Section 34(2) of the Excise Act, minimum punishment is one year and maximum punishment is three years. The applicant is in jail since 14.02.2024 and trial is likely to take some time for its conclusion, therefore, he prays grant of bail.
4. On the other hand, the learned counsel for the State opposes the bail application but admits that there is no criminal antecedents registered against the present applicant and the charge-sheet has already been filed in this case. He further submits that a total of 120 liters of country made Mahua liquor has been seized from the possession of the present applicant, therefore, he is not entitled for grant of bail.
5. I have heard learned counsel for the parties and perused all of the documents available on record.
6. Taking into consideration the facts and circumstances of the case, nature and gravity of allegation levelled against the applicant and the fact that there is no criminal antecedents registered against the present applicant, the charge-sheet has been filed against the applicant and he is in jail since 14.02.2024 and conclusion of the trial is likely to take some time, I am inclined to allow this application.
7. Let applicant, Heeralal @ Bauna Khadiya, involved in Crime No. 662/2023, registered at Police Station Sarangarh, District – Sarangarh-Bilaigarh (C.G.) for the offence punishable under Sections 34(2) and 59

(a) of the C.G. Excise Act, be released on bail on his furnishing a personal bond with two sureties in the like sum to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall file an undertaking to the effect that they shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through their counsel. In case of their absence, without sufficient cause, the trial court may proceed against them under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuse the liberty of bail during trial and in order to secure their presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against them in accordance with law.

8. However, this Court hopes and trusts that the trial Court shall make

earnest endeavour to conclude the trial expeditiously, if there is no legal impediment.

9. Office is directed to provide a certified copy of this order to the trial Court concerned for necessary information and compliance forthwith.

Sd/-
(Narendra Kumar Vyas)
Judge

Bhumika