



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4120 of 2023

Jagendra Nag S/o. Lt. Faguram Nag Aged About 38 Years R/o. House No. 172, Ward No. 9, Khaspara, Village Sonabal District Kondagaon Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Kondagaon District Kondagaon Chhattisgarh

---- Respondent

For Applicant : Mr. H.A.P.S. Bhatia, Advocate.

For Respondent-State : Ms. Madhunisha Singh, Deputy Advocate General.

Hon'ble Shri Ramesh Sinha, Chief Justice
Order on Board

22.06.2023

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.185/2023, registered at Police Station Kondagaon, District- Kondagaon, C.G. for the offence punishable under Section 34(2) of the Excise Act.
2. The case of the prosecution, in brief, is that on 01.06.2023 on a secret information received from an informant, the police has seized 32.640 bulk liter of foreign liquor from the possession of the present applicant. Thereafter, offence under Section 34(2) of the Excise Act has been registered.
3. It is argued by the learned counsel for the applicant that the applicant is falsely implicated in this case. He submits that the



applicant is in jail since 01.06.2023 and trial is likely to take some time for its conclusion. It is submitted that the applicant has no previous criminal antecedents under the Excise Act. He further submits that under Section 34(2) of the Excise Act, minimum punishment is one year and maximum punishment is three years, therefore, he prays grant of bail.

4. On the other hand, the learned counsel for the State opposes the bail application and admits that the applicant has no previous antecedents under the Excise Act and submits that the 32.640 liter of foreign liquor was recovered from the possession of the applicant and fairly, therefore, he is not entitled for grant of bail.

5. After hearing the submissions advanced by learned counsel for the parties as well as considering the fact that the applicant has no criminal antecedents and the conclusion of the trial is likely to take some time, and further that the applicant is in jail since 01.06.2023, I am of the opinion that the applicant is entitled to be released on bail in this case.

6. Let applicant, **Jagendra Nag**, involved in Crime No.185/2023, registered at Police Station Kondagaon District – Kondagaon C.G. for the offence punishable under Section 34(2) of the Excise Act, be released on bail on his furnishing **a personal bond** with **two sureties** each 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 he 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 his counsel. In case of his 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 misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicants 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 applicants are 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 him in accordance with law.

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



earnest endeavour to conclude the trial expeditiously within a period of six months from the date of receipt of a certified copy of this order, if there is no legal impediment.

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

Sd/-

(Ramesh Sinha)
Chief Justice

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