

(2018) 02 CHH CK 0374

In the Chhattisgarh High Court

Case No : Misc. Criminal Case No. 1264 Of 2018

Manu Matre AndOrs

APPELLANT

Vs

State Of Chhattisgarh AndOrs

RESPONDENT

Date of Decision : 22-02-2018

Acts Referred:

Indian Penal Code, 1860 — Section 34, 120B, 272, 409, 420
Code Of Criminal Procedure, 1973 — Section 439
Chhattisgarh Excise Act, 1915 — Section 34(2), 59A(ii)
Arms Act 1959 — Section 25

Citation : (2018) 02 CHH CK 0374

Hon'ble Judges : Sanjay K. Agrawal, J

Bench : Single Bench

Advocate : Sanjeev Das, Dilman Rati Minj

Final Decision : Allowed

Judgement

Sanjay K. Agrawal, J

1. The accused/applicants have moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing them on regular

bail during trial in connection with Crime No.338/2017, registered at Police Station Bhatapara (Rural), Distt. Balodabazar-Bhatapara, for the offence

punishable under Section 34 (2) of the Chhattisgarh Excise Act, 1915; Sections 420, 409, 120B, 272 read with Section 34 of the IPC; and Section 25 of

the Arms Act.

2. Case of the prosecution, in brief, is that 46.800 bulk liters of liquor was unauthorisedly found in possession of the applicants.

3. Learned counsel for the applicants submits that the applicants have not committed any offence, they have falsely been implicated in the case, they

are in custody since 9-10-2017 and two prosecution witnesses namely Mahadev Dhruv (PW-1) & Ramu Devdas (PW-2) have been examined and

they have not supported the case of the prosecution, therefore, the applicants may be released on bail.

4. On the other hand, learned counsel for the State opposes the bail application.

5. I have heard learned counsel appearing for the parties and perused the case diary.

6. Taking into consideration the condition incorporated in Section 59- A(ii) of the Chhattisgarh Excise Act, 1915, and bearing in mind the principles of

law laid down in Banti Singh v. State of Chhattisgarh (M.Cr.C.No.6846 of 2014, decided on 05.01.2015), if the facts of the present case are

examined, it is apparent that only 46.800 bulk liters of illicit liquor has been seized from the applicants which is more than the prescribed limit of 5 bulk

liters, but looking to the fact that the applicants are in custody from 9-10-2017, the case is triable by the Judicial Magistrate First Class, trial is likely to

take some more time and further taking into account the nature and gravity of offence and the plea raised by the applicants that they have falsely been

implicated in the case, particularly the applicants are in custody for more than five months, I am of the opinion that present is a fit case in which the

applicants should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the CrPC is allowed. It is directed that on furnishing a personal bond in the sum of

Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned Court for their appearance as and when directed, the applicants

shall be released on bail, subject to following conditions:

1. That, the applicants shall furnish a specific undertaking that while on bail, they will not commit any excise offence, otherwise bail granted to them

shall be liable to be cancelled and shall co- operate the investigation / trial.

2. That, the accused/applicants shall make themselves available for interrogation before the concerned Investigating Officer as and when required and

the accused/applicants 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/her from disclosing such facts to the Court or to any police officer.

3. That, the accused/applicants shall not act, in any manner, which will be

prejudicial to fair and expeditious trial.