
(2019) 06 CHH CK 0002

In the Chhattisgarh High Court

Case No : Miscellaneous Criminal Case (MCRC) No. 3682 Of 2019

Sanjay Choudhary

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 03-06-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Chhattisgarh Excise Act, 1915 — Section 34(2)
Public Gambling Act, 1867 — Section 4A

Citation : (2019) 06 CHH CK 0002

Hon'ble Judges : Parth Prateem Sahu, J

Bench : Single Bench

Advocate : Jitendra Gupta, Gagan Tiwari

Final Decision : Allowed

Judgement

Parth Prateem Sahu, J

1. The applicant has preferred this application under Section 439 Cr.P.C. for grant of regular bail as he has been arrested in connection with Crime No. 308/2019 registered at Police Station Chhawani, District Durg, (CG) on the allegation of having committed the offence punishable under Section 34 (2) of the Chhattisgarh Excise Act.

2. Case of the prosecution, in brief, is that the applicant has been found in illegal and unauthorized possession of 5.940 bulk litre of country made liquor.

3. Learned counsel for the applicant submits that the country liquor has been seized from an open place and not from exclusive physical possession of the Applicant. He has been falsely implicated in this case. He is in jail since 17.5.2019. Though the investigation is not complete, further detention of the applicant is not necessary for completion of investigation. Therefore, at this stage, looking to the small quantity of liquor alleged to be seized, he may be granted bail.

4. On the other hand, learned counsel for the State opposes the bail application and submits that the Applicant is having previous criminal antecedents and he has been convicted under Section 4-A of the Public Gambling Act, 1867. The unauthorized liquor was seized from the possession of the applicant, a prima facie case is made out. Investigation is not complete, therefore, at this stage the bail application may be rejected.

5. Considering the totality of case, particularly the quantity of country liquor alleged to be seized from the possession of the applicant, the fact that there is no previous track record of having committed similar offence, and that further detention of applicant is not necessary for completion of investigation and that the Applicant is in jail since 17.05.2019, this Court is of the opinion that present is a fit case where the applicant should be enlarged on bail.

6. Accordingly, the bail application is allowed. It is directed that on applicant's furnishing a personal bond in the sum of Rs. 10,000/- with two local sureties in the like sum to the satisfaction of the Court below concerned, he be released on bail for his appearance before the Court below concerned as and when directed. The applicant shall fully cooperate with the investigation and shall appear before the police authorities as and when directed, failing which the bail granted to him would be liable to be rejected.

7. Certified copy, as per rules.