



2024:CGHC:46071

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCRC No. 8138 of 2024

Nandlal Dhimar S/o Laxminath Dhimar Aged About 20 Years R/o Baspai Para, Police Station- Basantpur, City Rajnandgaon, Tehsil And District Rajnandgaon, Chhattisgarh.

... Applicant

versus

State Of Chhattisgarh Through The Police Station Basantpur, District : Rajnandgaon, Chhattisgarh

... Non-Applicant

For Applicant : Mr. Rajendra Patel, Advocate.

For Non-Applicant : Mr. Nitansh Jaiswal, Panel Lawyer.

Hon'ble Mr. Ramesh Sinha, Chief Justice
Order on Board

25/11/2024

1. This is the first bail application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the applicant who has been arrested in connection with Crime No. 354/2024 registered at Police Station Basantpur, District : Rajnandgaon (C.G.), for the offence punishable under Section 34(2) of the C.G. Excise Act.

2. Case of the prosecution, in brief, is that as per secret information received by the informant the Police of Police Station Basantpur, District : Rajnandgaon (C.G.) seized 44.820 liters of illicit liquor from the possession of the applicant, thereafter, the offence has been registered against the applicant and he was arrested. Hence, the bail application.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case and 44.820 bulk liters of illicit liquor was not seized from the exclusive possession of the applicant. He further submits that under Section 34(2) of the C.G. Excise Act, minimum punishment is one year and maximum punishment is three years. He also submits that the applicant has one criminal antecedent under the Excise Act, which is pending, the applicant is in jail since 08.08.2024 and the conclusion of the trial is likely to take quite long time. Therefore, he prays for grant of regular bail to the applicant.
4. Learned counsel for the State/non-applicant would oppose the bail application and submit that the charge-sheet has been filed in the present case before the competent Court and the applicant has one criminal antecedent under the Excise Act. He further submits that the 44.820 bulk liters of the illicit liquor was recovered from the possession of the applicant, therefore, he is not entitled for grant of bail.
5. I have heard learned counsel appearing for the parties and perused the case diary.

6. Taking into consideration the facts and circumstances of the case, nature and gravity of allegation levelled against the applicant and the fact that the applicant has only one criminal antecedent against him, which is pending and he is in jail since 08.08.2024 and the charge-sheet has been filed in the present case, further the conclusion of the trial may take some more time, this Court is of the view that the applicant is entitled to be released on bail in this case.
7. Let the applicant - **Nandlal Dhimar**, involved in Crime No. 354/2024 registered at Police Station Basantpur, District : Rajnandgaon (C.G.), for the offence punishable under Section 34(2) of the C.G. Excise Act, be released on bail on their 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 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 him under Section 269 of Bharatiya Nyaya Sanhita.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence, proclamation under Section 84 of BNSS. 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 209 of the Bharatiya Nyaya Sanhita.

(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 351 of BNSS. 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 him in accordance with law.

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

Sd/-
(Ramesh Sinha)
Chief Justice