

KAUK030007412016



ORDER OF BAIL APPLICATION

This bail application filed by accused under section 437 of Cr.P.C for the offences punishable under section 32, 34 and 38(A) of Karnataka Excise Act.

2. In the bail application, it is stated that accused has not committed any offences as alleged by the prosecution and he has been falsely implicated in the present case. He undertakes not to tamper any prosecution witness and further undertakes that he will cooperate with the investigation authorities in the event of his release on bail.

3. On the other hand, learned APP for the prosecution has filed objections opposing the bail application and contented that there are sufficient evidence annexed against the accused that he has committed offences. Hence, if the accused is enlarged on bail, it is likely that he

will tamper the prosecution witness and there are chances of him absconding from the jurisdiction of this Court. Accused's presence is secured by the police furtherance of the NBW issued by this court. If accused is now released on bail, there are every chances of him repeating the same. If the accused is enlarged on bail he will tamper the prosecution witnesses and therefore, prays to dismiss the bail application.

4. Heard the arguments both sides and perused the materials on record.

5. On perusal of entire material record, my findings to the above points arise for my consideration;

1. Whether the accused is entitled for the relief of the bail under section 437 of Cr.P.C?

2. What order?

6. On careful perusal of entire records my findings to the points are;-

Point No.1:- In Affirmative.

Point No.2:- As per final order for the following;

REASONS

7. **Point no.1:** In the instant case, in the bail application it is stated that accused is unnecessarily and falsely implicated. Further, it is stated that he is ready to furnish surety and stated that he is ready to abide to all the terms and conditions. On the other hand, the prosecution has opposed to the grant on bail. So, if the bail granted, the accused will tamper the prosecution witnesses and he may abscond from the jurisdiction of this Court. The offences alleged against accused is under section 32, 34 and 38(A) of Karnataka Excise Act. The alleged offences are not punishable with life imprisonment or death. It is well settled principle that bail is rule and jail is an exception. Hence, considering the principles of law and grounds mentioned in the bail application, I am of the opinion that accused is to be enlarged on bail by imposing conditions. Hence, considering the facts and circumstances,

I am of the opinion that accused is to be enlarged on bail by imposing suitable terms and conditions. Therefore, I **answer Point No.1 in Affirmative.**

8. In view of the above made discussion, I proceed to pass the following:-

ORDER

Bail application filed by the accused No.1 under section 437 of Cr.P.C for the offences punishable under section 32, 34 and 38(A) of Karnataka Excise Act is hereby allowed.

Accused is enlarged on bail by executing personal bond sum of Rs.50,000/- with one surety like sum under the following:-

1. Accused shall not tamper the prosecution witnesses.
2. He shall not commit similar offence.
3. He shall be regular to Court.

4. The violation of any of the above conditions, the bail bond and surety bond shall liable to be forfeited.

I/c.Addl.Civil Judge & JMFC-II,
Karwar.