

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 4479 of 2016

Saroj Chandrakar, S/o. Kalluram Chandrakar, Caste- Kurmi, aged about 38 years, R/o. Village-Bhandari Bharda, P.S./Tahsil Dongargaon, District – Rajnandgaon (C.G.)

---- Applicant

Versus

The State of Chhattisgarh, Through : Sambhagiya Udan Dasta Abkari, Raipur, Revenue/Civil District – Raipur (C.G.)

---- Respondent

For Applicant	:	Mr. S.S. Baghel, Advocate
For Respondent	:	Mr. Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri
Order On Board

16/08/2016

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No. 43/2016, registered at Police Station- Sambhagiya Udan Dasta Abkari, Raipur, District – Raipur (C.G.) for the offence punishable under Section 34(2) (1) & 59 (A) of the Chhattisgarh Excise Act. The earlier bail application was dismissed as withdrawn with liberty to file afresh after examination/recording the statement of the seizure witness.
2. As per the case of prosecution, on 05.05.2016, the applicant was found to be in possession of illicit liquor measuring about 99 bulk liters and he was arrested on 05.05.2016.
3. Learned counsel for the applicant submits that this is second bail application for grant of bail as the first bail application was dismissed as withdrawn vide order dated 29.06.2016 with liberty to file afresh

after examination of the seizure witnesses. It is further submitted that seizure witnesses namely Bhuneshwar Bhandari and Ghanshyam have been examined and they have not supported the case of the prosecution, which shows that the applicant has been falsely implicated in this case and no seizure was made from the applicant; therefore, he may be released on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail, however, he is not able to dispute the fact that seizure witnesses have not supported the case of the prosecution.
5. Perused the statement of the seizure witness namely Bhuneshwar Bhandari and Ghanshyam. Considering the fact that they have not supported the case of the prosecution, without any further observation on merits, this Court is inclined to release the applicant on bail.
6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
7. It is directed that the applicant shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.
8. Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge