

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6975 of 2016

- Shyam Sunder S/o Sahas Ram Aged About 55 Years Caste Mehar, R/o Village Bharari, Police Station Ratanpur, District Bilaspur Chhattisgarh

---- **Petitioner**

Versus

- State Of Chhattisgarh Through Excise Sub Inspector Excise Circle Kota District Bilaspur Chhattisgarh

---- **Respondent**

For Applicant : Mr. V.R. Tiwari, Advocate

For Respondent/State : Mrs. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

09-11-2016

1. This is a 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 on 29-7-2016 in connection with Crime No. 137 of 2016, registered at Police Station Excise Circle, Kota, District Bilaspur (CG) for the offence punishable under Sections 34 (1) (A)(2) and 59(A) of the Chhattisgarh Excise Act. Earlier first bail application was dismissed as withdrawn with liberty to renew the prayer after examination of the seizure witnesses on 6-9-2016.
2. As per prosecution case, when a raid was conducted by the police party, the applicant was found in possession of illicit liquor measuring about 9 liters, the same was seized from him and thereby the aforesaid offence was committed.
3. Learned counsel appearing for the applicant would submit that no seizure was made in person from the applicant, seizure witnesses have been examined namely PW/1 Bhola Prasad and PW/2 Parameshwar Kumar and they have not supported the prosecution case. He would further submit that

the applicant has been falsely implicated in the case, he is in jail since 29-7-2016, charge-sheet in this case has been filed and no further investigation is required, therefore, he may be released on bail.

4. On the other hand, learned State counsel opposes the prayer for grant of bail, however, he does not dispute the fact that the seizure witnesses have been examined and they have not supported the prosecution case.
5. I have heard learned counsel for the parties and have also perused the case diary and the documents.
6. Perused the statements of seizure witnesses PW/1 Bhola Prasad and PW/2 Prameshwar Kumar which would show that they have not supported the prosecution case.
7. Taking into consideration facts and circumstances of the case, nature of allegations leveled against the applicant and further considering the fact that the seizure witnesses have not supported the prosecution case and also the fact that charge-sheet in this case has been filed and the applicant is in jail since 29-7-2016, this court is inclined to release the applicant on bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond in the 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.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Raju