

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7427 of 2016

- Horilal S/o Late Koknath Yadav Aged About 30 Years R/o Village Bargaon, Post Bargaon, Police Station Berla, Tehsil Berla, District Bemetara Chhattisgarh

---- **Petitioner**

Versus

- State Of Chhattisgarh Through : The Station House Officer, Police Station, Berla, District - Bemetara Chhattisgarh

---- **Respondent**

For Applicant : Mr. S.P. Sahu, Advocate
For Respondent/State : Mr. Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

24-11-2016

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 19-9-2016 in connection with Crime No. 267 of 2016, registered at Police Station Berla, District Bemetara (CG) for the offence punishable under Section 34(2) 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 Earlier first bail application was dismissed as withdrawn with liberty to renew the prayer after examination of the seizure witnesses on 2-11-2016.
2. As per prosecution case, on 19-9-2016 when a raid was conducted by the police party, the applicant was found in possession of illicit liquor measuring about 18 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 Ganesh Ram Sahu and PW/2 Rupram 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 19-9-2016, 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 Ganesh Ram Sahu and PW/2 Rupram 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 19-9-2016, 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