

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
M.CR.C. No. 7670 of 2016

1. Narayan Sarkar, S/o. Harlal Sarkar, aged about 46 years, R/o. Village-Srinagar, 201, Mulchera, P.S. - Mulchera, District – Gadhchiroli, Maharashtra.

----Applicant

Versus

1. State of Chhattisgarh, Through : the Station House Officer, Police Station – Pakhanjur, District – North Bastar Kanker (C.G.)

---- Respondent

For Applicant	: Mr. Sandeep Shrivastava, Advocate
For Respondent/State	: Mr. Vivek Singhal, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

06/12/2016

1. This is the third bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.80/2012, registered at Police Station – Pakhanjur, District – North Bastar Kanker (C.G.) for the offence punishable under Section 34 (2) of Excise Act. The first bail application was dismissed as withdrawn with liberty to repeat the same after examination of the seizure witnesses vide order dated 01.08.2016 and thereafter, the second bail application was dismissed for want of prosecution vide order dated 02.11.2016.
2. Case of the prosecution, in brief, is that on 09.09.2012 on an information received that illicit liquor is being transported, while the police was patrolling one car bearing number MH-33-G- 802 was

found in abandoned condition and in it 1160.76 bulk liters of liquor was seized and from the car, RC book of the car was seized and the present applicant was reported to be the owner of the car and he was subsequently arrested.

3. Learned counsel for the applicant submits that this is third bail application. First bail application was dismissed as withdrawn with liberty to repeat the same after examination of the seizure witnesses and thereafter, again the repeat bail application was dismissed for want of prosecution. It is further submitted that seizure witnesses Arjun Singh and Sannu Aanchala have been examined and they have not supported the case of the prosecution. Therefore, the counsel prays that the applicant may be enlarged on bail.
4. On the other hand, learned counsel for the State opposes the bail application, however, he is not able to dispute the fact that seizure witnesses have not supported the case of the prosecution.
5. I have heard learned counsel appearing for the parties.
6. Perused the statement of the witnesses. Taking into the fact that seizure witnesses in this case have been examined and they have not supported the case of the prosecution and further considering the facts and circumstances of the case and the applicant is in jail since 17.05.2016, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that 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.
9. Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Balram