

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.1783 of 2017**

- Tiharu Satnami S/o Shyamlal, Aged About 35 Years Occupation Labor R/o Village Bamhani, Thana Mahasamund Tahsil And District Mahasamund Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station City Kotwali, Mahasamund District Mahasamund Chhattisgarh

---- Respondent

For Applicant : Shri Vikas Pradhan, Advocate
 For Respondent/State : Shri Neeraj Mehta, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****29.3.2017**

Heard the matter finally.

2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with crime No. 121/2017 registered in Police Station City Kotwali, Mahasamund for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.

3. Case of the prosecution, in brief, is that the applicant was carrying 46.800 bulk liters of country made liquor in his motor cycle bearing registration No.CG 06 D 0805 and the same was seized by the police.

4. Learned counsel for the applicant submits that the applicant was arrested on 28.02.2017 by the police of City Kotwali, Mahasamund, and the charge sheet is yet to be filed. He further submits that though in three other criminal cases No.1323/14 judgment dated 16.02.2016, 359/2013 judgment dated 05.02.2014, 1547/2013 judgment dated 09.7.2014, the applicant was tried by the criminal court regarding alleged illicit possession of liquor, but in all the above three criminal cases he was acquitted by the respective criminal courts. Except the present case, no other criminal case has been registered against the applicant. Hence, he may be granted bail.

5. On the other hand, learned counsel for the State opposes the bail application and would submit that vide Crime No.324/14, an offence has been registered against the present applicant for illicit possession of 3.840 liter liquor for which charge sheet has been duly filed before the criminal court which is registered as Criminal Case No.1323/2014. Looking to the similar offence committed by the present applicant, the bail application may be rejected.

6. Perused the material.

7. On due consideration that though earlier three criminal cases were registered and prosecuted against the applicant, but ultimately he was acquitted by the criminal Court, as the State had not preferred any appeal against said acquittal, I am inclined to award one last opportunity to the applicant.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

9. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.1,00,000/- with one surety in the like sum to the satisfaction of Chief Judicial Magistrate, Mahasamund for his appearance before the said Court as and when directed.

10. It is made clear that this order granting bail to the applicant shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicant suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicant does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature; and (iv) the trial Court finds that the applicant remains absent without any sufficient and cogent reason. If bail is cancelled automatically in view of the above, the Court below may proceed further under the provisions of law, under intimation.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE