

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 848 of 2017

- Rakesh Rajput S/o Atarsingh Rajpur Aged About 28 Years R/o Village Masudpur, Police Station Karaiya, District Gwalior (Madhya Pradesh), At Present R/o Power House Bus Stand Near Mahendra Bar, Bhilai, District-Durg, Chhattisgarh

---- Petitioner

Versus

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

---- Respondent

For Applicant : Mr. P.P. Sahu, Advocate

For Respondent/State : Ms. K. Tripti Rao, Panel Lawyer

oHon'ble Shri Justice Goutam Bhaduri

Order on Board

06-03-2017

1. This is 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 11-7-2016 in connection with Crime No. 169 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 Earlier first bail application was dismissed as withdrawn with liberty to repeat the same after examination of the seizure witnesses on 28-11-2016.
2. As per prosecution case, 11-7-2016 on information being received a raid was conducted by the police party and from the possession of the present applicant illicit liquor measuring about 246.060 liters was seized from him and thereby the aforesaid offence was committed.
3. Learned counsel appearing for the applicant would submit that now seizure witnesses namely Rahul, Sunil and Devendra Singh have been examined and they have not identified the present applicant. He would

further submit that the applicant has been falsely implicated in the case, he is in jail since 16-7-2016, 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 is not able to dispute the fact that the seizure witnesses have been examined and they have not identified the present applicant.
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 Rahul, Sunil and Devendra Singh. *Prima facie*, it appears that identification of the present applicant by the seizure witnesses is in question.
7. Taking into consideration facts and circumstances of the case and further considering the statements of the seizure witnesses, without further observation on the merits of the case, I am 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