

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C. No. 6297 of 2017

Avinash Roy @ Monu S/o Chitranjan Roy, aged about 20 years, R/o Rajeev Gandhi Chowk, Manjhawapara Jarhabhata, Bilaspur, P.S.Civil Line District Bilaspur (C.G.)

--- Applicant

Versus

State Of Chhattisgarh Through Police Station Sarkanda, District Bilaspur (C.G.).

---Non-applicant

For Applicant : Shri P.K.Tulsiyaan, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06/10/2017

1. The applicant has preferred this bail application under Section 439 Cr.P.C. in connection with Crime No.295/2017 registered at Police Station Sarkanda, Bilaspur (C.G.) for the offence punishable under Section 34 (2) of C.G.Excise Act
2. The present is the repeat bail application. The earlier bail application filed by the applicant stood dismissed as withdrawn vide order dated 13/06/2017 in MCRC No.3416/2017 with liberty to revive the same after the material witnesses were examined.
3. As per prosecution case, the present applicant was found in possession of 315 bulk liter English made liquor on 26/04/2017 and therefore he was charged with the offence under Section 34 (2) of C.G. Excise Act.
4. The counsel for the applicant submits that, it is a case where another co-accused Shambhu Yadav has been released on bail by this court vide order dated 13/06/2017 in MCRC No.3409/2017. He further submits that,

the present applicant's case is also identically placed to that of Shambhu Yadav except for the fact that, there was one previous incident of the present applicant. He further submits that, it is a case where the applicant has been falsely implicated in as much as from the same incident, a similarly placed person Shambhu Yadav have also been prosecuted seperately showing the same quantity, from the seizure made on the same day, same place and therefore he submits that, the entire case of the prosecution stands falsified. He further submits that, the material witnesses i.e. the seizure witness have already been examined before the trial court and they have not support the case of prosecution and have turned hostile. Therefore, he prayed for the applicant to be released on bail.

5. The State counsel does not opposed the bail application.

6. Considering the facts and circumstances of the present case and that of the case of Shambhu Yadav and also the material witnesses turning hostile, this court has no hesitation in reaching to the conclusion that, prima-facie, a strong case has been made out for grant of bail to the present applicant, since the seizure witness has not support the case of the prosecution.

7. Accordingly, the application for grant of bail is allowed. It is ordered that the applicant shall be released on bail on his executing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Trial Court. The applicant shall thereafter appear before the Trial Court on each and every date given by the said court.

**Sd/-
(P. Sam Koshy)
Judge**