

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 723 of 2017

- Basant Jangde S/o Kejauram Jangde Aged About 38 Years R/o Mohra, Police Station Suhela, District Baloda Bazar- Bhatapara, Chhattisgarh.

---- Petitioner

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Suhela, District Baloda Bazar- Bhatapara, Chhattisgarh.

---- Respondent

For Applicant : Mr. Amiyakant Tiwari, Advocate

For Respondent/State : Mr. Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

13-02-2017

1. This is the first 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 26-12-2016 in connection with Crime No. 200 of 2016, registered at Police Station Suhela, District Balodea Bazar- Bhatapara (CG) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.
2. As per prosecution case, on information being received a raid was conducted by the Mahila Commando Samiti, from the possession of other co-accused Amit Pathak 51 quarters of liquor was seized and subsequently present applicant fled away and thereafter he was arrested and thereby the aforesaid offence was committed.
3. Learned counsel appearing for the applicant would submit that inception of the case itself is nullity and power has not been delegated to Mahila Commando Samiti, which is not notified by the State Government and no seizure was made in person from the applicant. He would further submit that the applicant has been falsely implicated in the case, he is in jail since

26-12-2016 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.
5. I have heard learned counsel for the parties and have also perused the case diary and the documents.
6. Taking into consideration the facts and circumstances of the case and further considering the fact that the raid was not conducted by any notified Excise Officer and seizure of liquor was not in person from the applicant as it is stated that he fled away, therefore, taking into totality, without further observation on the merits of the case, I am inclined to release the applicant on bail.
7. 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. He shall also appear before the trial Court as and when directed.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Raju