

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 752 of 2017

- Pitambar Nishad S/o Bhagbali Nishad Aged About 32 Years R/o Village- Chingauti, Chauki- Kandarka, Thana- Berla, District Bemetara, Chhattisgarh. --- **Applicant**

Versus

- State of Chhattisgarh through- Chauki- Kandarka, Thana- Berla, Revenue/ Civil District Bemetara, Chhattisgarh. --- **Respondent**

For the applicant	: Mr. Samir Singh Advocate
For the Respondent	: Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice GOUTAM BHADURI

Order on Board

01.03.2017

1. This is an application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 380 of 2016 registered at Police Chowki Kandarka, P.S. Berla, Distt. Bemetara (C.G) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.
2. The prosecution alleges that when a raid was conducted by the Police on 30.12.2016 from the possession of the applicant 13.500 bulk litres of illicit liquor was seized.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case and no seizure was made in person from him. He further submits that earlier also the applicant was implicated in similar nature of offence registered u/s 34(1)(A) of the Excise Act wherein the seizure witnesses Chinta Ram Nishad and Bishat Yadav have been examined and they have not supported the case of prosecution, therefore, the present is also a false case.

4. Per contra, learned State Counsel opposes the bail application. However, he is not able to dispute the fact that in earlier case registered u/s 34(1)(A), the seizure witnesses have not supported the case.
5. Taking into consideration the totality of the circumstances particularly the fact that in earlier case, the seizure witnesses have not supported the case of prosecution and further looking to the detention of the applicant as he is stated to be in jail since 30.12.2016, this Court is inclined to release him on bail.
6. Accordingly, this application is allowed and the applicant is directed to be released on bail on his executing a personal bond in 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 said Court as and when directed by the said Court.

C.c. as per rules.

Sd/-
GOUTAM BHADURI
JUDGE