

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.1727 of 2017

Deepak Chandrakar, S/o Shri Hemlal Chandrakar, aged about 25 years, R/o Village Arand, Thana & Tahsil Mahasamund, Civil & Revenue Distt. Mahasamund (C.G.)

---- Applicant

Versus

The State of Chhattisgarh, Through the Station House Officer, Police Station Mahasamund, Civil & Revenue Distt. Mahasamund (C.G.)

---- Non-applicant

For Applicant:	Mr. Sunil Sahu, Advocate.
For Non-applicant:	Mr. Neeraj Mehta, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

28/03/2017

1. Heard the matter finally.
2. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing him on regular bail during trial in connection with Crime No.98/2017, registered at Police Station City Kotwali, Mahasamund, Distt. Mahasamund, for the offence punishable under Section 34 (2) of the Chhattisgarh Excise Act, 1915.
3. Learned counsel for the applicant would submit that the applicant was arrested by the City Kotwali Police of Mahasamund in connection with Crime No.98/2017 under Section 34 (2) of the Chhattisgarh Excise Act, 1915 on 13.02.2017, till date, charge-sheet is not filed and the applicant is in custody directed by the Chief Judicial Magistrate, Mahasamund. He is the first offender. This is the first bail application, no other bail application has been filed by

the applicant before this Court and before the Apex Court for the cause, hence he may be enlarged on bail. Learned counsel would further submit that as per the allegations, the applicant was in illicit possession of duty paid country made liquor for 11 ltrs. 700 ml.

4. Per contra, learned State counsel who has opposed the arguments of learned counsel for the applicant would submit that earlier, the applicant was arrested on 23-3-2015 by Police Station Bhimkhoj and as per the allegation, he was in illicit possession of duty paid liquor of 4 ltrs. 500 ml. and for this, Rojnamcha Sanha No.957/29-3-2015 was registered and charge-sheet has been filed before the Judicial Magistrate First Class. Hence, as the applicant was involved in another matter for the similar offence, the bail application may be dismissed.
5. On due consideration, though there is a matter registered against the present applicant under Section 34 (1) (a) of the Chhattisgarh Excise Act, 1915, there is no any material to demonstrate regarding the outcome of the said criminal trial and also looking to the facts and circumstances, it would be appropriate to grant one more opportunity to the applicant so that he may remain in the society without committing similar offence again. Accordingly, I am inclined to allow the instant M.Cr.C. and the same is allowed.
6. It is directed that if the applicant furnishes a personal bond in the sum of Rs.25,000/- with one solvent surety in the like sum to the satisfaction of the Chief Judicial Magistrate, Mahasamund, for his appearance before the said trial Court as and when directed, he shall be released on bail.
7. 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 before the 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.

8. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge