

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1786 of 2017**

- Anand Kishore Borkar S/o Sadaram Borkar, Aged About 35 Years R/o Ambagarh Chauki, Tehsil & Police Station Ambagarh, Chauki, District Rajnandgaon Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Ambagarh, Chauki, District Rajnandgaon Chhattisgarh

---- Respondent

For Applicant	: Shri S.S. Baghel, Advocate
For Respondent/State	: Shri Neeraj Sharma, Dy. GA

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****29.3.2017**

Heard the matter finally.

2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with crime No.38/2017 registered at Police Station Ambagarh Chouki, Rajnandgaon (CG) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.

3. Case of the prosecution, in brief, is that 6.840 bulk liters of country made liquor was seized by the police from the present applicant.

4. Learned counsel for the applicant submits that the applicant is in jail by the order of C.J.M. Rajnandgaon. The applicant has been tried in Cr. Case No. 557/2015 vide judgment dated 9.8.2016, Cr. Case No.348/2010, judgment dated 20.9.2010 and Cr. Case No.439/2012, judgment dated 20.6.2013. He has been acquitted for the charges framed under Section 34 (1) (a) of the Excise Act and presently only one matter is pending against the present applicant. It was alleged that the applicant was found in possession of 0.9. liters of liquor. He prays for releasing the applicant on bail.

5. On the other hand, learned counsel for the State opposes the bail application. He submits that though there were 4 cases registered against the present applicant, but as per the documents submitted out of them aforementioned 3 criminal cases were disposed of finally and the applicant was acquitted in those matters and only one aforesaid matter is pending.

6. I have heard the counsel appearing for the parties.

7. Without commenting on merits, considering the totality of the facts and circumstances of the case, small quantity of liquor and also considering the fact that the applicant is in detention since 23.2.2017, this Court is of the opinion that present is the fit case, in which, the applicant should be enlarged on regular bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

9. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- with one surety in the like sum to the satisfaction of the C.J.M. Rajnandgaon for his appearance before the said trial Court as and when directed.

10. 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 the Hon'ble 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.

Certified copy as per rules.

Sd/
(Chandra Bhushan Bajpai)
JUDGE