

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1849 of 2017**

- Ramesh Kumar Agariya S/o Asharam Agariya, Aged About 27 Years R/o Village Bharatpur Mohalla Bhagwanpur, Police Station Kotraroad, Tahsil & District Raigarh Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Office, Police Station Kotraroad District Raigarh Chhattisgarh

---- Respondent

For Applicant	: Shri M.K. Jaiswal, Advocate
For Respondent/State	: Shri Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****03/4/2017**

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.27/2017 registered at Police Station Kotraroad, District Raigarh (CG) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.

3. Case of the prosecution, in brief, is that 6.480 bulk liters of duty paid liquor was seized by the police from the present applicant.

4. Learned counsel for the applicant submits that the applicant has been arrested on 10.2.2017 (wrongly mentioned, as the applicant was arrested on 9.2.2017 as per the copy of arrest memo shown by the State counsel). He submits that charge sheet has not been filed in the matter and the matter is pending before J.M.F.C. Raigarh. He submits that the applicant has no criminal background and has been falsely implicated in the case, and therefore, the applicant may be released on bail.

5. On the other hand, learned counsel for the State opposes the bail application. He submits that in addition to this, 2 matters arises under Section 36 (c) of the Excise Act, 1915 registered in 2015-16 were registered against the applicant and in 2 cases registered in 2004 & 2013 proceeding under Sections 107 & 116 Cr.P.C. is initiated against the applicant.

6. I have heard the counsel appearing for the parties and perused the material.

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 9.2.2017, 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.25,000/- with one surety in the like sum to the satisfaction of the J.M.F.C. Raigarh (CG) 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**