

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1876 of 2017**

- Ashok Sao S/o Shri Mahendra Sao, Aged About 38 Years R/o Village Gogaon, Sukhram Nagar, Police Station Gudhiyarai, Tahsil & District Raipur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through District Magistrate, Police Station Khamtarai, District Raipur, Chhattisgarh.

---- Respondent

For Applicant	: Shri Y.C. Sharma, Advocate
For Respondent/State	: Shri Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****04/4/2017**

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.121/2017 registered at Police Station Khamtari, District Raipur (CG) for the offence punishable under Section 3, 7 of the Essential Commodities Act.

3. Case of the prosecution, in brief, is that 55 liters of kerosene oil, reserved for distribution in the Public Distribution System has been seized by the police from the present applicant.

4. Learned counsel for the applicant submits that charge sheet has not been filed. The applicant is in judicial custody as directed by the CJM Raipur. He submits that earlier the applicant was Hawker for the distribution of kerosene oil and presently he is working as a Mechanic and in one matter registered earlier, the applicant was acquitted by the concerned court and in another matter the applicant is on bail and trial is going on. He further submits that the applicant is in jail since 1 month and 6 days. The offence is not punishable with imprisonment for life and it is triable by Judicial Magistrate First Class, therefore, he may be granted opportunity to remain on bail during trial. The applicant will not commit any similar offence in future and therefore, the applicant may be released on bail.

5. On the other hand, learned counsel for the State opposes the bail application. In addition, he submits that earlier also 2 cases under Crime No. 18/2014 and 161/2016 have been registered against the present applicant under Section 3/7 of the Essential Commodities Act though he is not in a position to state the quantity of kerosene oil seized from the alleged possession of the applicant and the outcome of the said prosecution, but shows criminal antecedent of the applicant, hence the application may be dismissed.

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

7. The applicant is in jail since 1 month and 6 days till date for the possession of 55 litres of kerosene oil reserved for distribution in the public distribution system. The said kerosene oil was of blue color purposely colored by the State to identify it. On due consideration, I am inclined to grant one last opportunity to the applicant so that he may not involve in any of the similar offence in future, therefore, this is a 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 of the likesum to the satisfaction of the CJM, Raipur (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