

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.2074 of 2017**

- Omprakash Tiwari S/o Ghasiram Tiwari Aged About 60 Years R/o Ward No. 15, Juna Shahar , Ratanpur, Police Station- Ratanpur, Civil & Revenue District Bilaspur, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Excise Circle Kota, Police Station Kota, District Bilaspur, Chhattisgarh.

---- Respondent

For Applicant	: Shri Mirza Hafeez Baig, Advocate
For Respondent/State	: Shri Neeraj Mehta, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****12.4.2017**

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.248/2016 registered in Police Station Excise Circle Kota, Police Station Kota, Bilaspur for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.

3. Learned counsel for the applicant submits that the applicant has been arrested on 27.10.2016 and after investigation, police has filed charge sheet before the Judicial Magistrate First Class, Kota, Distt. Bilaspur and the case was registered as Criminal Case No.495/2016. As per the allegation, 6 liters of country made liquor was seized from the house of the applicant. He is aged

about 60 years, first offender, he has been falsely implicated in the case, therefore, the applicant may be released on bail.

4. Learned counsel for the State submits that case diary is not available.

5. Present matter is taken up after pass over as the State counsel requested for passed over of the matter.

6. On due consideration it would be appropriate to decide the matter on the basis of order dated 23.11.2016 passed by the Fourth Additional Sessions Judge, Bilaspur in bail petition No.1504/2016. In the said order, the session court recorded the fact that 6 liters of country made liquor has been seized from the residence of the applicant. There is no disclosure of facts before the said Sessions Court by the respondent /State whether the applicant was having any other criminal antecedent or not.

7. Perused the matter. Also perused the copy of charge sheet submitted on behalf of the applicant. On perusal, it appears that there is no material showing criminal antecedent of the applicant. The applicant is the permanent resident of Police Station Ratanpur, Distt. Blaspur, aged about 60 years. Also having residential house as shown in the charge sheet.

8. On due consideration, as the applicant is in jail since more than 5 ½ months, I am inclined to grant opportunity to the applicant, so that he may live in the society without committing any further offence.

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

10. 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 Judicial Magistrate First Class, Kota, Distt. Bilaspur for his appearance before the said Court as and when directed.

11. 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