

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.2041 of 2017**

- Manharan Lal Chandra S/o Shri Shiv Charan Aged About 38 Years R/o Village Tuman, Police Station Urga, Tahsil Kartala, District Korba, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through District Magistrate, Korba, Chhattisgarh.

---- Respondent

For Applicant	: Shri Vaibhav A Goverdhan, Advocate
For Respondent/State	: Shri Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****27.4.2017**

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.415/2017 registered in Police Station Excise Circle, Korba for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.

3. Learned counsel for the applicants submits that the applicant has been arrested on 09.3.2017, after investigation, concerned investigating agency has filed charge sheet against the present applicant which is pending as Criminal Case No.498/17 before Chief Judicial Magistrate, Korba. The applicant is the first offender, he is in jail for one month and 18 days, the trial may

take some time, he will not commit any offence in future. It is alleged that from the possession of the present applicant 90 bulk liters of liquor has been seized along with vehicle Bolero bearing registration No.CG 12 DA 444, though quantity of liquor is on higher side, he will not commit any offence in future, hence he may be granted opportunity. He further submits that earlier Crime No.351/15 for the offence under Section 36C of the CG Excise Act and Crime No.443/07 for offence under Section 36 B CG Excise Act were registered against him and in both the above matters, the applicant was sentenced for fine of Rs.1,000/- and Rs.500/- and he was not sentenced for imprisonment, he is ready to abide by the terms and conditions as directed by this Court, hence, he may be granted opportunity to remain on bail during trial.

4. Per contra , learned counsel for the State opposes the bail application and would submit that as aforementioned in the year 2007 and 2015 two matters were registered against present applicant which goes to show his involvement in the matter. Hence, the instant application may be dismissed.

5. Perused the entire material.

6. As the applicant is in jail since one month and 18 days, charge sheet has been filed , the matter is pending, trial may take sometime and in earlier two cases the applicant was sentenced with fine only, in the present matter 90 bulk liters of liquor has been seized from the applicant along with Bolero as it is submitted

on behalf of the applicant that he will not commit any offence in future, I am inclined to grant one last opportunity to the applicant, so that he will not commit any offence in future.

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

8. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.1,00,000/- with two solvent sureties of Rs.50,000/- each to the satisfaction of Chief Judicial Magistrate, Korba for his appearance before the said Court as and when directed.

9. It is further directed that till the conclusion of the trial, present applicant shall mark his appearance before the said incharge of the excise circle/investigating officer/senior official as the case may be, on **first and third Monday of every month** at 11.00 am till the disposal of the case.

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.

11. Registrar (Judl.) is further directed to send a copy of the order to the concerned Chief Judicial Magistrate and also to provide a copy of the order to the respondent/State for placing it with the case diary to be returned to the concerned police for compliance and information.

12. It is further made clear that if the applicant without any cogent and proper reason does not appear before the concerned Excise Circle, twice in the month as directed, the concerned police may inform the trial Court for the act and if his appearance found to be without any proper and cogent reason, the instant order granting bail to the applicant shall automatically be cancelled by the trial Court without further reference to the Bench, under intimation.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE