

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2071 of 2017**

- Santosh Nirmalkar S/o Nathuram Nirmalkar, Aged About 38 Years R/o Maddeval Para Arang, Tahsil & Police Station, Arang, Civil & Revenue District Raipur, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Police Station Arang Civil & Revenue District Raipur, Chhattisgarh.

---- Respondent

For Applicant	: Shri Mayank Chandrakar, Advocate
For Respondent/State	: Shri Sumit Jhanwar, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****11.4.2017**

1. 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.104/2017 registered at Police Station Arang, Civil and Revenue District Raipur(CG) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.
3. Case of the prosecution, in brief, is that 5.760 bulk liters of foreign liquor was seized by the police from the present applicant.

4. Learned counsel for the applicant submits that the applicant is in detention since 23.2.2017. Charge sheet has been filed against the applicant. The matter is pending before the Judicial Magistrate First Class, Raipur in Cr. Case No.2605/2017. He further submits that 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. However, he fairly conceded that the applicant is not involved in any other offence prior to the incident.

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 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.25,000/- with one surety in the like sum to the satisfaction of the J.M.F.C., Raipur 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 today.

**Sd/
(Chandra Bhushan Bajpai)
JUDGE**