

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.2176 of 2017**

- Vijay Kumar Sahu S/o Thanwar Sahu, Aged About 38 Years R/o Surajpura Jungle, Police Station & Tahsil Sahaspur Lohara, Civil & Revenue District Kabirdham, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through District Magistrate / Station House Officer, Police Station Sahaspur Lohara, District Kabirdham, Chhattisgarh.

---- Respondent

For Applicant	: Shri Dharmesh Srivastava, Advocate
For Respondent/State	: Shri Neeraj Sharma, Dy.Govt. Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****01.5.2017**

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.64/2017 registered in Police Station Sahaspur Lohara, District Kabirdham 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 19.3.2017, after investigation, concerned police has filed charge sheet against the present applicant, which is pending as Criminal Case No.307/17 before Chief Judicial Magistrate, Kabeerdham (Kawardha). The applicant is the first offender, as per the allegation, 18 bulk liters of country made liquor

has been seized from the possession of the present applicant. He further submits that the applicant will not commit any offence in future, earlier Crime No.113/14 under Section 20(b)(ii)A of the NDPS Act, has been registered against present applicant, but the quantity of the ganja was small, he was granted bail by Chief Judicial Magistrate, Kabeerdam on 03.4.2014. The said matter is being tried by Chief Judicial Magistrate Kabeerdham and in the said trial both the panch witnesses Horial (PW-1) and Shiv Kumar (PW-2) turned hostile. The applicant will not commit any offence in future, he may be granted bail as the police has filed charge sheet and he is in jail for about one month and twelve days till date.

4. Per contra , learned counsel for the State opposes the bail application and would submit that earlier also 750 gm of ganja has been recovered from the applicant in connection with Crime No.113/14 as aforementioned. Hence, his bail application may be dismissed.

5. Perused the entire material.

6. Though earlier 750 gms of ganja has been recovered from the applicant but as the said ganja was of small quantity, triable by Judicial Magistrate First Class, the applicant was granted bail in the matter , looking to the fact that the applicant is in jail for one month and twelve days, charge sheet has been filed, as per allegation 18 liters of country made liquor has been seized, I am inclined to grant one last opportunity to the applicant, so that he shall not commit any similar or other 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.50,000/- with one solvent surety of like sum to the satisfaction of Chief Judicial Magistrate, Kabeerdham for his appearance before the said Court as and when directed.

9. 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