

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.2184 of 2017**

- Tirith Ram Ghritlahare S/o Late Dhaniram Ghritlahare, Aged About 51 Years R/o Village Bhatagaon [Kokadi] Thana & Tahsil Balodabazar, District Balodabazar Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Chowki Lawan, Police Station Kasdol District Balodabazar Bhatapara Chhattisgarh

---- Respondent

For Applicant : Shri NK Malaviya, Advocate
 For Respondent/State : Shri UKS Chandel, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****19.4.2017**

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.31/2017 registered in Outpost Lawan Police Station Kasdol, Distt. Baloda Bazar – Bhattapara for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915.

3. Learned counsel for the applicant submits that the applicant has been arrested on 20.3.2017, after investigation charge sheet has been filed before Chief Judicial Magistrate, Baloda Bazar, which is registered as Criminal Case No. 189/2017 on 28.3.2017. Charge sheet has been filed against present applicant, Ranjay

Gupta and Santosh Sahu. Bail petition of co-accused Ranjay Gupta was dismissed by the Coordinate Bench of this Court vide order dated 07.3.2017 in M.Cr.C. No. 1227/2017 and bail petition of co-accused Santosh Sahu was dismissed as withdrawn by the Coordinate Bench of this Court vide order dated 20.3.2017 in M.Cr.C. No. 1421/17. The applicant is the registered owner of the vehicle CG 04 HC 4867 Bolero and in the said vehicle, as per the case of the prosecution co-accused Ranjay Gupta and Santosh Shau were transporting 168.96 bulk liters of liquor, they were stopped by the villagers, both of them run away from the spot, the police was informed and thereafter the police seized the said Bolero along with 168.96 bulk liters of liquor from the spot. Both the accused fled from the spot and there after they were arrested. The applicant was not with them at the time of the incident. This is not a case of prosecution that the applicant was also present along with two other co-accused and run away from the spot. The applicant gave the vehicle on rent to Ranjay Gupta. The Police seized registration papers and other documents along with the agreement of rent from the present applicant goes to show that the vehicle in question was given to co-accused Ranjay Gupta on rent. The applicant is made accused in the matter on account of vicarious liability. The applicant is the first offender, he never involved in any of the similar offence, but bonafidely gave his vehicle on rent to co-accused Ranjay Gupta . He was not at all in any way connected with the transportation of the said liquor. He will not commit any offence in future. The Vehicle is already

seized, the applicant is in jail for a month, he will be granted opportunity to remain on bail and to face the trial. The case of the present applicant is distinguishable from the case of the co-accused persons whose bail applications were dismissed as aforementioned, hence the applicant may be enlarged on bail.

4. Per contra, learned counsel for the State opposed the arguments advanced on behalf of the applicant and would submit that there is no criminal antecedent reported against the applicant in the case diary.

5. Perused the entire material.

6. On due consideration, the applicant is in jail for about a month, charge sheet has been filed, he is not having any criminal antecedent and as per the case of the prosecution agreement for rent of vehicle to the Ranjay Gupta and other papers were seized prima facie goes to show that the applicant gave vehicle to the co-accused Ranjay Gupta and the applicant was not caught from the spot. There is no material in the prosecution to demonstrate that the applicant was involved in the said illegal transaction of the liquor. He is made accused only on the basis of documents of vicarious liability as he was the registered owner of the vehicle. On due consideration I am inclined to grant opportunity to the applicant so he shall be cautious for any future agreement on rent to a person who may commit any similar 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 one solvent surety in the like sum to the satisfaction of Chief Judicial Magistrate, Baloda Bazar 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