

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2249 of 2017**

- Vimal Nayak S/o Hulooram Nayak, Aged About 50 Years R/o Village Nagabuda, Police Station & Post Office Gariyaband, District Gariyaband, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Gariyaband, District Gariyaband, Chhattisgarh.

---- Respondent

For Applicant	: Shri Shivendu Pandya , Advocate
For Respondent/State	: Shri Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****18.4.2017**

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.46/2017 registered at Police Station Gariyaband, Distt. Gariyaband, Civil 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 5.260 liters of beer was seized by the police from the present applicant.

4. Learned counsel for the applicant submits that the applicant is in detention since 19.3.2017. He further submits that after investigation police had filed the charge sheet, which is pending as Cr. Case No. 323/2017 before the C.J.M. Gariyaband. The applicant is the first offender 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 submitted that Gariyaband Police had not noticed any criminal antecedent against the present applicant.

6. I have heard the counsel appearing for the parties.

7. Without commenting on merits, considering the totality of the facts and circumstances of the case, small quantity of beer and also considering the fact that the applicant is in detention since 19.3.2017, 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 C.J.M. Gariyaband 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 as per rules.

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