

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2314 of 2017**

- Bhupesh Gilhare S/o Late Mahettar Gilhare, Aged About 35 Years R/o Village Patora, Police Station & Post Office Fingeshwar, District Gariyaband, Chhattisgarh.

---- Applicant**Versus**

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

---- Respondent

For Applicant	: Shri Shivendu Pandya, Advocate
For Respondent/State	: Shri Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****26.4.2017**

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.26/2017 registered at Police Station Fingeshwar, Distt. Gariyaband Civil District Raipur (CG) for the offence punishable under Sections 34(2) of the Chhattisgarh Excise Act, 1915.
3. Case of the prosecution, in brief, is that 11.160 Bulk Liters of country made liquor was seized by the police from the present applicant.

4. Learned counsel for the applicant submits that the applicant is in detention since 18/03/2017. 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. He submits that earlier crime no. 71/2015 under section 34 (1) (a) of the Excise Act and another matter in complaint case No.33/2015 under Section 151, 107, 116 Cr.P.C. has been registered against the applicant shows his involvement in the offence.

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, quantity of liquor and also considering the fact that the applicant is in detention since 1 month and 8 days, charge sheet has not been filed and though as per allegations 11.160 bulk liters of liquor has been seized from the possession of the applicant, I am of the opinion that one last opportunity may be given to the applicant to remain in the society without committing any offence.

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.30,000/- 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**