

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2356 of 2017**

- Omprakash Nayak S/o Shri Shiv Prasad Nayak, Aged About 30 Years R/o Nayak Tand, Kharora, Police Station Kharora, District Raipur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Tilda Newra, District Raipur, Chhattisgarh.

---- Respondent

For Applicant	: Shri Yogeshwar Sharma, Advocate
For Respondent/State	: Shri Wasim Miyam, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****01.05.2017**

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.125/2017 registered at Police Station Tilda Newra, District Raipur(CG) for the offence punishable under Section 34 (2) of the CG Excise Act.

3. Case of the prosecution, in brief, is that 36.200 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 arrested on 28.3.2017. Charge sheet has been filed before the JMFC, Tilda District Raipur. He submits that the applicant is the first offender, therefore, the applicant may be released on bail.

5. On the other hand, learned counsel for the State opposes the bail application. Though he fairly conceded that Newra Police had not registered any crime against the present applicant.

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, though the quantity seized from the applicant is on the higher side, but looking to the fact that he is the first offender, I am inclined to grant one opportunity to the applicant and allow the bail application.

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.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the JMFC, Tilda, District 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 as per rules.

Sd/
(Chandra Bhushan Bajpai)
JUDGE