

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.2539 of 2017**

- Tameshwar Pal @ Bhuru S/o Khamman Pal Aged About 26 Years R/o Village Kukurmuda, Police Station & Tahsil Khairagarh, District Rajnandgaon Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station- Khairagarh, District Rajnandgaon, Chhattisgarh.

---- Respondent

For Applicant	: Shri Rakesh Pandey, Advocate
For Respondent/State	: Shri Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****08.5.2017**

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.99/2017 registered in Police Station Khairagarh, Distt. Rajnandgaon 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 29.3.2017, charge sheet is yet to be filed and he has been remanded by Additional Chief Judicial Magistrate, Khairagarh. The applicant will not commit any offence in future, though Crime No.173/16 under Section 34(2) of the Excise Act has already been registered against him but he was granted bail in the said matter and the same is pending before Additional Chief Judicial

Magistrate, Khairagarh as Criminal Case No.291/16, and in the said matter, trial is not yet concluded, the panch witnesses Devendra Pal and Mohan have been examined, but they have not supported the prosecution story and they have been declared hostile by the Assistant Public Prosecutor, which goes to show that registration of the said matter the prosecution story is under cloud. In the present case, as per the allegation, 18 liters of country made liquor has been seized from the shop of the applicant.

4. Per contra, learned counsel for the State opposes the bail application and would submit that in addition to the above mentioned, another matter has been registered against the present applicant as Crime No.153/16 for the offence punishable under Sections 294, 506, 323 read with 34 of the IPC. Looking to the criminal antecedent and the conduct, bail application of the applicant may be dismissed.

5. Perused the entire material.

6. On due consideration and perusal of the statement of the witnesses recorded in the aforementioned Criminal Case No.291/2016 and with the fact that the applicant is in jail since one month and eleven days, charge sheet is not filed yet, 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 two

solvent sureties of Rs.25,000/- each to the satisfaction of Additional Chief Judicial Magistrate, Khairagarh 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