

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.2529 of 2017**

- Pradip Kumar Mugar S/o Purushottam Aged About 37 Years R/o Ward No. 6, Atal Aavas Nayapara Mahasamund, Police Station, Tahsil & District Mahasamund, Chhattisgarh.

---- Applicant**Versus**

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

---- Respondent

For Applicant	: Shri Vikash Pradhan, Advocate
For Respondent/State	: Shri Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****27.6.2017**

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.161/2017 registered in Police Station Mahasamund, Distt. Mahasamund (CG) for the offence punishable under Sections 34(2) of the Chhattisgarh Excise Act, 1915.

3. Learned counsel for the applicant submits that the applicant has been arrested on 23.3.2017, the police has filed charge sheet which is pending before Chief Judicial Magistrate, Mahasamund as Criminal Case No. S-975/17. As per the allegation, 18 bulk liters of country made liquor has been seized from the possession of the applicant. Learned counsel for the applicant further submits that in

addition to the above, in the following cases, the applicant has been acquitted by the trial Court.

Sl. No.	Crime No.	Criminal Case No.	Offence under Section	Date of Judgment
01.	360/2015	S-1705/2015	34(1)(a) of CG Excise Act, 1915	23.11.2016
02.	443/2015	S-2058/2015	34(1)(a) of the CG Excise Act, 1915	23.11.2016
03.	158/2016	S-914/2016	34(1) of the CG Excise Act, 1915	06.02.2017

In addition to the above, under Section 34(1) of the Excise Act, the applicant has been granted bail in Criminal Case No.S-2554/2016, S-2555/16, S-2506/16 and S-1086/2016 as the offence committed were bailable one. He further submits that one matter in relation with preventive proceedings was initiated as Complaint Case No.62/2016 under Section 151 of Cr.P.C. and the same has been closed after six months. The applicant will not commit any offence in future, hence he may be granted bail in the instant matter.

4. Per contra, learned counsel for the State opposes the bail application and would submit that apart from the three aforementioned matters, whereby the applicant has been acquitted by the trial Court, Crime No. 284/2016 & 446/2016 under Section 34(1)(a) of the Excise Act and in Crime No.548/2016 under Section 34(2) of the Excise Act has also been registered against the applicant. Looking to the criminal antecedents of the applicant, the application for bail may be dismissed.

5. Perused the entire material.

6. On due consideration of the fact that the applicant is in jail for three months and four days, considering the fact that many matters have been registered against the applicant, out of which, in three matters, the applicant was ultimately acquitted by the trial Court and in four matters he has been granted bail, though the liquor so seized is on higher side, but considering the entire facts, I am inclined to grant one opportunity to the applicant, so that he shall not commit any similar or other offence in future.

7. Accordingly, 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 separate solvent sureties of Rs.25,000/- to the satisfaction of the Chief Judicial Magistrate, Mahasamund 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.

10. It is further directed that till the conclusion of the trial, present applicant shall mark her appearance before the Station House Officer/IO, Police Station Mahasamund, Distt. Mahasamund (CG) on **First and Third Monday of every month at 11.00 am.** It is further made clear that if the applicant without any cogent and proper reason does not appear before the Police of Mahasamund, Distt. Mahasamund as directed, the concerned police may inform the trial Court for the act and if his non appearance found to be without any proper and cogent reason, the instant order granting bail to the applicant shall automatically be cancelled by the trial Court without further reference to the Bench, under intimation.

11. Registrar (Judl.) is further directed to send a copy of the order to the concerned trial Judge and also to provide a copy of the order to the respondent/State for placing it with the case diary to be returned to the concerned police for compliance and information.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE