

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2840 of 2017**

- Mahesh Verma S/o Banshi Lal Verma, Aged About 32 Years R/o Village Saloni, Police Station Ghumka District Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Ghumka District Rajnandgaon, Chhattisgarh.

---- Respondent

For Applicant	: Shri SS Baghel, Advocate
For Respondent/State	: Shri OP Sahu, GA

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****06/06/2017**

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.32/2017, registered at Police Station Ghumka, Rajnandaon, District Rajnandgaon(CG) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915.
3. Learned counsel for the applicant submits that the applicant is arrested on 9.4.2017 and after investigation police had filed the charge sheet before the CJM Rajnandgaon as Cr. Case No. 1480/2017. As per allegations from the possession of the

applicant 36 bulk liters of country liquor has been seized. In addition to the above submission, learned counsel for the applicant would submit that Crime No. 52/2017 under Section 392/34 IPC has been registered against the present applicant for which he has been tried in criminal case No. 241/2012 along with other co-accused. The trial Court vide judgment dated 17.12.2015 acquitted the applicant and other co accused for the charges under Section 392/34 IPC. Against the said acquittal, State has preferred Cr. Appeal No. 6/2016. The Additional Sessions Judge (Scheduled Castes and Scheduled Tribes(Prevention of Atrocities) Act, 1989), Rajnandgon vide judgment dated 27.7.2016 affirmed the judgment of acquittal passed by the trial court. Against the said order, State has not preferred any revision before the High Court and 2 matters bearing Complaint No. 15/2017 and 41/2017 have been registered under the relevant provisions of preventive proceedings and in one matter Cr. No. 13/2017 has been registered under Section 34(1) (a) of the Chhattisgarh Excise Act, 1915 which is bailable one. He further submits that trial may take some time and the applicant will not commit any offence in future, therefore, the applicant may be released on bail.

4. On the other hand, learned counsel for the State opposes the bail application on the basis of aforementioned criminal antecedents and also the quantity of liquor so seized from the applicant.

5. I have heard the counsel appearing for the parties and perused the material.

6. Considering the totality of the facts and circumstances of the case, the applicant is in detention since 1 month and 27 days; charge sheet has been filed; trial may take some time and in an offence under Section 392 IPC ultimately, the applicant has been acquitted by the trial Court, affirmed by the appellate court; another matter in relation to Excise Act was bailable one, the applicant has been enlarged on bail in the said matter and though the quantity so seized is on the higher side, I am inclined to grant last opportunity to the applicant so that he shall not involve in any of the offence and shall remain in the society peacefully.

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.1,00,000/- with two sureties of Rs.50,000/- each to the satisfaction of the C.J.M. Rajnandgaon for his appearance before the said trial Court as and when directed till trial.

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)
VACATION JUDGE