

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.2828 of 2017**

- Dilip S/o Bhuruwa Dhritlehre Aged About 39 Years R/o Village Dharampura, Police Station Jarhagaon & Tehsil Mungeli, Civil District Bilaspur & Revenue District Mungeli, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Police Station Of Jarhagaon, Civil District Bilaspur & Revenue District Mungeli Chhattisgarh.

---- Respondent

For Applicant	: Shri Pallav Mishra, Advocate
For Respondent/State	: Shri Sumit Jhavar, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****30.6.2017**

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.72/2017 registered in Police Station Jarhagaon, Civil District Mungeli (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 has been arrested on 07.4.2017. After investigation, police has filed charge sheet against the applicant which is pending as Criminal Case No.530/2017 before Chief Judicial Magistrate, Mungeli. As per allegation, 99 bulk liters of country made liquor has been seized from the possession of the applicant. He further submits that in the present matter trial is going on, panch witnesses Kuwari Dhritlahare

(PW-1) and Santhosh Kashyap (PW-2) have been examined, but they have not supported the case of the prosecution. With this, there is some cloud of suspicion over the seizure in the matter. He further submits that prior to this incident, following cases have been registered against the present applicant.

Sl. No.	Crime No.	Offence U/S.
01.	44/2012	36C of CG Excise Act, 1915
02.	65/2015	34 (1)(a) of the CG Excise Act, 1915
03.	91/12	34(1)(a) of the CG Excise Act, 1915
04.	Complaint Case 269/08	107 & 116 of Cr.P.C.
05.	Complaint Case 02/16	110 Cr.P.C.

He further submits that as the last two matters were in relation with preventive proceedings and three matters were bailable one, the applicant may be granted one last opportunity, he will not commit any offence in future, he may be granted bail.

4. Per contra, learned counsel for the State opposes the bail application on the basis of the huge quantity of the liquor so seized from the applicant and also his criminal antecedent.

5. Perused the entire material.

6. On due consideration of the fact that the applicant in jail for two months and twenty three days, the trial may take sometime for its conclusion, two panch witnesses have already been examined and they have not supported the case of the prosecution, though the

quantity of liquor so seized is on higher side and also considering the criminal antecedent of the applicant, but looking to the entire facts and circumstances, 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, 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 solvent sureties of Rs.50,000/- to the satisfaction of the Chief Judicial Magistrate, Mungeli 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 their appearance before the Station House Officer/IO, Police Station Jarhagaon, Distt. Mungeli 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 Police Station Jarhagaon, Mungeli 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 today itself.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE