

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Criminal Case No. 3342 of 2017**

- Pritam Prasad Kesharwani S/o Jhanga Prasad, Aged About 36 Years Caste Kesharwani, R/o Village Basti Baradwar, Police Station & Tahasil Baradwar, District Janjgir Champa, Chhattisgarh.

---- Applicant

**Versus**

- State Of Chhattisgarh Through S.H.O. Baradwar, District Janjgir Champa, Chhattisgarh.

---- Respondent

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| For Applicant        | : Shri Ishwar Jaiswal, Advocate     |
| For Respondent/State | : Shri U.K.S. Chandel, Panel Lawyer |

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**Hon'ble Shri Justice Chandra Bhushan Bajpai****Order On Board****09.6.2017**

Heard on IA No.1 of 2017, application for taking document on record.

3. On due consideration, IA No.1 of 2017 is hereby allowed. Document annexed along with IA No.1 of 2017 is taken on record if, otherwise admissible.

2. Also heard the matter finally.

4. 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 on 3.4.2017 in connection with Crime No.81/2017 registered in Police Station-Baradwar, District-Janjgir-Champa, Chhattisgarh for the offence punishable under Section 34(2) of Chhattisgarh Excise Act, 1915 (for short 'the Act,1915').

5. Learned counsel for the applicant submits that after investigation, police had filed charge-sheet against the applicant which is pending before the Chief Judicial Magistrate, Janjgir, Chhattisgarh as Criminal Case No.407 of 2017. The trial may take some time for its conclusion. The applicant was not involved in any other similar offence. He may be granted bail during trial.

6. In addition, learned counsel for the applicant would submit that applicant is acquitted for the offence under Section 34(1)(a) of the Excise Act, 1915 (for short 'the Act,1915') in relation with crime No.206 of 2015. The case was registered before the concerned Court as Criminal Case No.848 of 2015 under the Act, 1915. In the said matter, applicant was acquitted in another matter Crime No.293 of 2015 was in relation with offence under the Act, 1915. It is alleged that applicant was in illicit possession of 2.52 bulk liters of country made liquor which is pending and bailable one. The matter is registered as Crime No.78 of 2014 is in relation with offence under Section 36(C) of the Act, 1915 which is also bailable one and the Complaint No.79 of 2017 in relation with preventive proceedings, the applicant may be given an opportunity to remain on bail during the trial. He further submits that the applicant will not commit any offence in future and the trial may take sometime for its conclusion, hence, he may be granted bail.

7. As per allegation, 5.940 bulk liters country made liquor has been seized from the applicant.

8. Per contra, learned counsel for the State opposes the bail application and arguments submit on behalf of the applicant on the basis of aforementioned matter registered which is goes to show the

criminal antecedent of the applicant. Hence, the instant M.Cr.C. may be dismissed.

**9.** Perused the entire material.

**10.** On due consideration of the fact that the applicant is in jail for two months eight days till date charge-sheet has been filed. Trial may take some time. As aforementioned in one matter application is acquitted by trial Court one matter is in relation with preventive proceedings and two other matters though under Section 34(1)(a) and Section 36(C) of the Act, 1915 but looking to their facts and after consideration of other facts including quantity of liquor so seized from the possession of applicant in the present matter, I am inclined to grant last opportunity to the applicant, so that he shall not commit any similar or other offence in future and shall live peacefully in the society.

**11.** Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

**12.** It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.40,000/- with one solvent surety of the like sum to the satisfaction of the Chief Judicial Magistrate, Janjgir, Chhattisgarh for his appearance before the said Court as and when directed till trial.

**13.** 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)**

**V.JUDGE**

Nisha