

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.4176 of 2017**

- Sonu Vishwakarma S/o Dhani Lal Vishwakarma, Aged About 27 Years R/o Near Hanuman Mandir, Jhopda Jail Tiraha, Durg, Police Station / Tehsil District Durg Chhattisgarh Arrest Police Station Ghumka Rajnandgaon Chhattisgarh

---- Applicant

Versus

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

---- Respondent

For Applicant : Shri Shaleen Singh Baghel, Advocate
 For Respondent/State : Shri Neeraj Mehata, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****26.7.2017**

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.140/2016 registered in Police Station Ghumka, 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 has been arrested on 12.11.2016, after investigation, concerned police has filed charge sheet, which is pending before Chief Judicial Magistrate, Rajnandgaon as Criminal Case No.40/17. As per the allegation, 09 bulk liters of country made liquor has been seized from the possession of the applicant. The applicant

is the first offender, he will not commit any offence in future, the trial may take sometime for its conclusion, hence he may be granted bail. In addition, learned counsel for the applicant supplements that looking to the duration of the custody and other facts as the applicant was not in a position to engage any outside lawyer for his release on bail, he as noble duty of earnest advocate, filed this petition without taking any remuneration from the applicant.

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicant on the basis of the quantity of liquor so seized from the applicant but fairly submits that there is no criminal antecedent reported against the applicant.

5. Perused the entire material.

6. The applicant is in custody for eight months and fourteen days, charge sheet has been filed, he is the first offender, the trial may take sometime for its conclusion, though the quantity of liquor so seized is on higher side but considering the entire facts, I am inclined to grant bail to the applicant.

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.5,000/- with one solvent surety of like sum amount to the satisfaction of the concerned trial Judge 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 appears that the matter is pending since long before the trial Court, in absence of the entire facts, this court is not in a position to appreciate as to why the matter is pending for trial since long. But after considering the entire facts, the Court below is directed to conclude the trial as expeditiously as possible preferably within two months from the next date of hearing under intimation to the Registry positively.

11. A perusal of the matter it appears that the applicant is in custody since long only on account of financial constrain to engage any outside lawyer to represent him for his prayer to release him on bail. It appears that the concerned District Legal Services Authority are not verifying through duly appointed lawyers or through appropriate authorities under the rules that how many accused are languishing in jail and requires any free legal services u/s. 2(c) of the Legal Services Authorities Act, 1987. The matter requires more

attention for the functioning of the District Legal Services Authority of the State so as to sensitize and find out appropriate cases where the accused are languishing in the jail and they be given free legal aid in the appropriate cases. With this, copy of this order be sent to the Member Secretary, Chhattisgarh State Legal Services Authority to consider the facts and after taking appropriate direction ensure legal aid as required to the concerned as per relevant rules.

12. This Court appreciates the noble work done by learned counsel for the applicant for rendering his valuable service towards a needy person who is languishing in jail for long.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE