

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.4455 of 2017**

- Jageshwar S/o Shri Jhamlal Banjare, Aged About 38 Years R/o Village Amaldiha, Thana & Tahsil Pandariya, Civil & Revenue District Kabirdham, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Pandariya, Civil & Revenue District Kabirdham, Chhattisgarh.

---- Respondent

 For Applicant : Shri Sunil Sahu, Advocate
 For Respondent/State : Shri Sumit Jhavar, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

01.9.2017

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.56/2017 registered in Police Station Pandariya Distt. Kabirdham (CG) for the offence punishable under Sections 436, 294, 323, 506 and 324 of the Indian Penal Code.

3. Learned counsel for the applicant submits that the applicant has been arrested on 10.5.2017, after investigation charge sheet has been filed which is pending before Sessions Judge, Kabeerdham as Session Trial No.28/2017. It is submitted that the applicant is seriously ailing which reflects from the material annexed and also report submitted by the respondent/State. During the trial, the victim Hajari and Smt. Kewra bai filed an application under Section 302(2) of the CrPC to compound the

offence against the applicant. The trial Judge vide order dated 12.7.2017, allowed the application and acquitted the applicant of the charges under Section 294(2 counts), 506-II (2 counts), 323 (2 counts) of the IPC. It is further held that as the offence under Section 436 of the IPC is not a compoundable offence, the trial shall continue for the said offence. With this, it is submitted that as the victims/complainants compounded the matter against the applicant, both the parties are neighbours, and the applicant never involved in any of the similar offence, the trial may take some time, he will not commit any offence in future, he may be enlarged on bail.

4. Per contra, learned counsel for the State opposed the arguments advanced on behalf of the applicant on the basis of the act of the applicant surfaced in the charge sheet and also on the basis of the following matters registered against the applicant.

Sl. No.	Crime No./ Complaint No.	Offence U/S.
01.	103/2016	34(1)(a) of CG Excise Act, 1915
02.	123/2016	36C of CG Excise Act, 1915
03.	140/2016	107, 116(3) CrPC

5. Perused the entire material.

6. The applicant is in custody for three months and twenty two days, trial is pending, except Section 436 of the IPC, the applicant has been acquitted in the remaining sections as aforementioned, though earlier one matter for preventive proceedings and two matter of Excise Act has been registered , as both the matters are

bailable one, looking to the entire facts and also the fact that the applicant is ailing, I am inclined to grant one last opportunity to the applicant so that he will not commit any offence in future and shall remain peacefully in the society.

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.30,000/- with one solvent surety of like sum amount to the satisfaction of 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.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE