

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.4705 of 2017**

- Chovaram Yadav S/o Shri Deepchand Aged About 50 Years Occupation Labour, R/o Village Khallari, Thana Bheemkhoj, Tahsil Bagbahra, Civil & Revenue District Mahasamund Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Khallari, Civil & Revenue District Mahasamund Chhattisgarh.

---- Respondent

For Applicant	: Shri Sunil Sahu, Advocate
For Respondent/State	: Shri Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****17.8.2017**

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.100/2017 registered in Police Station Khallari, Distt. Mahasamund (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 17.6.2017, after investigation, Police has filed charge sheet which is pending before Chief Judicial Magistrate, Mahasamund as Criminal Case No. S-1871/2017. As per the allegation 5.220 bulk liters of foreign liquor/country made

liquor has been seized from the possession of the applicant. Learned counsel for the applicant submits that the applicant is the first offender, he will not commit any offence in future, as the trial may take some time for its conclusion, he may be granted bail during trial.

4. Per contra, learned counsel for the State opposed the arguments advanced on behalf of the applicant and would submit that prior to the present incident, Crime No.118/16 under Section 34(1) a of CG Excise Act has been registered against the applicant.

5. Perused the entire material.

6. The applicant is in jail for two months, charge sheet has been filed, trial may take some time for its conclusion, though another matter has been registered against the applicant which is a bailable offence and also looking to the entire facts, I am inclined to grant one 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.25,000/- with one solvent surety of like sum amount to the satisfaction of Chief Judicial Magistrate, Mahasamund 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. A perusal of the order dated 05.7.2017 passed by the Sessions Judge, Mahasamund in bail petition No.471/17, it appears that the Court below has mentioned the date of incident as 30.6.2017 but on the perusal of the charge sheet and the case diary available with the counsel for the parties, it appears that the date of incident is 17.6.2017. With this, learned sessions Judge, Mahasamund is directed to be careful in future while mentioning the date of incident.

11. A copy of this order be sent to the concerned court below for compliance and for future guidance.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE