

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5078 of 2017

- Prakash Dubey S/o Chandrasekhar Dubey, Aged About 27 Years R/o Village Saida, Police Station Chakarbhata, District Bilaspur (Chhattisgarh).

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Chakarbhata, District Bilaspur (Chhattisgarh).

---- Respondent

For Applicant : Mr. Raghvendra Pradhan, Advocate.

For Respondent/State : Mr. Anant Bajpai, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

21/11/2017

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant. The first bail application was rejected vide order dated 20.6.2017 in MCRC No.2880/2017 by the co-ordinate Bench of this Court. Applicant has been arrested in connection with Crime No. 132/2017, registered at Police Station- Chakarbhata, District – Bilaspur(C.G.) for the offence punishable under Sections 34(2) & 59 of the Excise Act.
2. The prosecution alleges that the applicant was found to be in possession of illicit liquor measuring about 136.800 bulk liters and he was arrested on 03.04.2017.
3. Learned counsel for the applicant submits that the second bail application has been filed after the change of the circumstances in the

trial against the applicant. The independent witnesses have been examined, who have turned hostile and not supported the case of prosecution, hence, under this circumstance, applicant has become entitled for grant of bail.

4. Learned State counsel opposes the prayer for grant of bail, however, he would submit, that the trial is yet completed, hence, the examination of independent witnesses alone cannot decide the fact of the case against the applicant. For this reason, he is not entitled for grant of bail.
5. Heard both the parties and perused the case diary.
6. Considered this submission and perused the copy of the statement of witnesses against the application recorded by the trial Court, as it appears that due to the hostility of the witnesses against the applicant, there is some change of the circumstances, because of which second bail application for grant of bail deserves to be allowed which is allowed.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
8. It is directed that the applicant shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge