

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.5181 of 2017**

- Hitesh Kumar S/o Devnandan Sahu Aged About 32 Years Caste Teli, R/o Village Koma Thana Khallari, Tahsil Bagbahara And District Mahasamund Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Khallari, District Mahasamund Chhattisgarh.

---- Respondent

For Applicant	: Shri Vikash Pradhan, Advocate
For Respondent/State	: Shri Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****29.8.2017**

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.142/2017 registered in Police Station Khallari, Distt. Mahasamund (CG) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act

3. Learned counsel for the applicant submits that the applicant has been arrested on 28.7.2017, charge sheet is not yet filed, the applicant has been remanded by Chief Judicial Magistrate, Mahasamund. As per the allegation, from the possession of the applicant, 33.300 bulk liters of country/foreign liquor has been seized. 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.

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicant on the basis of the huge quantity of liquor so seized from the applicant and also as the following matters registered against the applicant prior to the incident.

Sl. No.	Crime No.	Offence U/S.
01.	95/20151	34(1)(a) of CG Excise Act, 1915
02.	225/2015	34(1)(a) of CG Excise Act, 1915

5. Perused the entire material.

6. As the applicant is in custody for one month and one day, charge sheet is not yet filed, the trial may take sometime for its conclusion, though earlier two matters have been registered against the applicant, but those matters were bailable one and also though the quantity of liquor so seized is on higher side, but considering the other facts, I am inclined to give one opportunity to the applicant so that he shall not involve in any other 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.1,00,000/- with two separate solvent sureties of Rs.50,000/- 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 is further directed that till the conclusion of the trial, present applicant shall mark his appearance before the Station House Officer/IO, Police Station Khallari, Distt. Mahasamund (CG) **on First and Third Monday of every month at 11.00 am.** It is further made clear that if the applicant without any cogent and proper reason does not appear before the Police of Police Station Khallari, Distt. Mahasamund as directed, the concerned police may inform the trial Court for the act and if his non appearance found to be without any proper and cogent reason, the instant order granting bail to the applicant shall automatically be cancelled by the trial Court without further reference to the Bench, under intimation.

11. Registrar (Judl.) is further directed to send a copy of the order to the concerned trial Judge and also to provide a copy of the order to the respondent/State for placing it with the case diary to be returned to the concerned police for compliance and information.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE