

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 5214 of 2017**

- Balram S/o Ramkishore Sao, Aged About 35 Years R/o Krishna Nagar, Supela, Bhilai, District Durg, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Supela, Bhilai, District Durg, Chhattisgarh.

---- Non-applicant

For Applicant	: Ms. Kiran Singh, Advocate.
For Respondent/State	: Mr. Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****31.08.2017**

1. 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. 586/2017 registered in Police Station Supela Bhilai, Distt. Durg, (C.G.) 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 12.07.2017. Charge-sheet is not yet filed, the applicant has been remanded by Chief Judicial Magistrate, Durg, (C.G.) As per allegation, 10.200

bulk liters of handmade country liquor has been seized from the possession of the applicant. He 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. In addition learned counsel for the applicant would submit that earlier crime no. 1010 /11, under Section 302 and 201 of the Indian Penal Code has been registered against the applicant and the applicant was convicted by the 4th Additional Sessions Judge, Durg, Chhattisgarh, in Sessions trial No. 89/12 vide Judgment dated 11.09.2012. The applicant was convicted under Section 302 and 201 of the I.P.C. and sentenced to undergo R.I. Four life and R.I for four years along with default sentences. Against said Judgment the applicant had preferred Criminal appeal No. 919/12, which is pending before High Court. In the said criminal appeal prayer of the applicant to release him on bail by suspending his sentence was allowed by the Division Bench vide order dated 14.03.2013. With this applicant is on bail and the said Criminal appeal is pending. The conviction of the applicant is under challenge hence, till the trial of the present matter the applicant may be enlarged on bail.

4. Per contra, learned counsel for the State opposed the arguments advanced on behalf of applicant on the basis of the aforementioned matter registered against the applicant and conviction awarded to the applicant by the trial Court.
5. Perused the entire material.
6. The applicant is in custody for one month and nineteen

days till date, charge sheet is not filed, the trial may take some time for its conclusion, though afore-mentioned matter the applicant held convicted and sentence by the trial Court and thereafter he has preferred criminal appeal which is pending, applicant is already granted bail in this matter. On consideration of entire facts that the applicant never involved with similar offence, 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. 30,000/- with one solvent sureties of like sum amount Chief Judicial Magistrate Durg, (C.G.) for his appearance before the said Court regularly 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; (iv) the trial Court finds that the applicant remains absent without any sufficient and cogent reason. If bail is cancelled automatically in view of above, the

Court below may proceed further under the provisions of law under intimation.

10. The applicant is further directed to appear before the concerned SHO/IO/in-charge of the Police Station Supela, Bhilai, District-Durg every 1st and 3rd Monday of every month till the conclusion of the trial. If the applicant fails to do so, concerned police may intimate the trial Court and if the trial Court held that the applicant remains absent without any cogent reason and proper reason as directed, the bail granted to applicant shall stand cancelled by the trial Court without further reference to the bench under intimation. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.
11. Register (Judicial) is directed to send a copy to this 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.
12. Certified Copy as per rules.

Sd/-

(Chandra Bhushan Bajpai)
Judge